

UNITED STATES DISTRICT COURT **CERTIFIED COPY**

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable YVONNE GONZALEZ ROGERS, Judge

EPIC GAMES, INC.,	)	<b>Evidentiary Hearing</b>
	)	
Plaintiff,	)	<b>Volume 5</b>
	)	
vs.	)	NO. C 20-05640 YGR
	)	
APPLE, INC.,	)	Pages 711 - 903
	)	
Defendant.	)	Oakland, California
_____	)	Wednesday, May 22, 2024

**REPORTER'S TRANSCRIPT OF PROCEEDINGS**

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I N D E X

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Wednesday, May 22, 2024

9:10 A.M.

P R O C E E D I N G S

--o0o--

**MR. BORNSTEIN:** I have with me today Lauren Moskowitz, Michael Zaken. At the head of the table is Anissa Badea. Ms. Badea has not made an appearance, but she's required at counsel table for assistance today. It's A-N-I-S-S-A, B-A-D-E-A.

**THE COURT:** Did he get that right?

**MS. BADEA:** Yes, he did.

**MR. BORNSTEIN:** Whew.

And we also have Mr. Even. And later in the day we'll be rejoined by Allison Tilden who was with us during the first week.

**THE COURT:** Okay. Good morning to you all.

Mr. Perry, good morning.

**MR. PERRY:** Good morning, Your Honor.

Mark Perry for Apple. At counsel table with me today is Richard Doren, Jason Lo, Jacqueline Sesia, S-E-S-I-A, and Tony Bedel, B-E-D-E-L, as well as Ms. Grenier from Apple.

**MS. GRENIER:** Good morning, Your Honor.

**THE COURT:** Good morning, everyone.

Mr. Schiller, good morning.

**THE WITNESS:** Good morning, Your Honor.

**THE COURT:** We will proceed again with your

1 testimony. I remind you you're still under oath.

2 **THE WITNESS:** Yes.

3 **THE COURT:** Is there anything we need to do, or can  
4 we just get started?

5 **MR. BORNSTEIN:** Just very quickly for the Court's  
6 information, Mr. Perry informed me this morning that Apple  
7 anticipates providing to us on Friday morning the various set  
8 of documents that the Court has ordered produced.

9 **THE COURT:** Okay. Thank you.

10 **MR. PERRY:** Thank you, Your Honor.

11 **THE COURT:** Mr. Bornstein, you may proceed.

12 **MR. BORNSTEIN:** Thank you very much, Your Honor.

13  
14 **PHILIP SCHILLER,**

15 called as a witness for the PLAINTIFF, having been previously  
16 duly sworn, continued testifying as follows:

17 **DIRECT EXAMINATION** (Continued)

18 **BY MR. BORNSTEIN:**

19 **Q.** And, Mr. Schiller, you should have up there two binders.

20 **MR. BORNSTEIN:** And I'm sorry to do this, but with  
21 the Court's permission, I'm going to ask Ms. Gupta to bring up  
22 a supplemental binder for everybody.

23 **THE COURT:** Okay.

24 **MR. BORNSTEIN:** Thank you, Your Honor.

25 **Q.** All good?

1 A. Yes. Thank you.

2 Q. Okay. So I'd like to start by diving into some of the  
3 specifics of the rules that Apple has laid out for its new  
4 entitlement program. And we covered a number of them with  
5 Mr. Fischer so I don't intend to go through everything with  
6 you, but I would like to cover some.

7 Let's start with the warning screen that pops up when a  
8 user clicks on an external purchase link.

9 Can you take a look at Exhibit CX-3 in your binder.

10 (Exhibit published.)

11 **BY MR. BORNSTEIN:**

12 Q. This is already in evidence.

13 And we can put it here on the screen. I'm going to direct  
14 you to dot five.

15 A. (Reviewing document.)

16 Q. And if it's easier for you, Mr. Schiller, you can just  
17 look on the screen if you have the screen in front of you.

18 A. I will. I do not have a CX-3. It's blank in that tab.

19 Q. You should have a CX-003 in the initial binder you were  
20 given, the big one.

21 A. Yes, I have that tab. There's nothing after it.

22 Q. Oh, all right. Well, why don't we just look on the  
23 screen, if you don't mind.

24 A. That's fine. Thank you.

25 Q. Great.

1           So the image on the screen, this is the warning screen  
2           which comes from page CX-3.5 that pops up when a user clicks  
3           on the external purchase link; is that correct?

4           **A.** Yes, it is.

5           **Q.** All right. And Apple requires this precise language to  
6           pop up word-for-word, correct?

7           **A.** Well, it's not just that we require it. This is actually  
8           generated by the API by Apple, not by the developer's app.

9           **Q.** Fair enough. So the developer who clicks, who has an  
10          external purchase link in its app, when a user clicks on it,  
11          this is the screen word-for-word that will appear with the  
12          exception of customization of the name of the developer every  
13          single time, correct?

14          **A.** Yes.

15          **Q.** Okay. And it's this font, this color scheme, everything  
16          must look just like this, correct?

17          **A.** This is the one sheet that comes up, yes.

18          **Q.** Great. And you were one of the people who was responsible  
19          for approving the text and the appearance of this screen,  
20          correct?

21          **A.** Yes.

22          **Q.** And Mr. Cook was another one of the people who was  
23          responsible for approval, correct?

24          **A.** Yes.

25          **Q.** All right. And you were here when Mr. Fischer answered

1 some questions about this screen, yes?

2 A. Yes.

3 Q. All right. And do you recall him telling the Court that  
4 Apple, on this screen, is not saying to users or even implying  
5 to users that other payment offerings like PayPal or Stripe  
6 are worse or less private or less secure than Apple's IAP; do  
7 you recall that?

8 A. Yes.

9 Q. Do you agree with him on that? Do you agree that with  
10 this screen, Apple is not saying or implying that PayPal and  
11 Stripe and other providers are worse or less secure or less  
12 private than IAP?

13 A. Yes.

14 Q. Okay. So Apple here is just advising users of the various  
15 risks that they might encounter if they use another payment  
16 system?

17 A. Correct.

18 Q. And Apple doesn't claim on this screen that other  
19 offerings like PayPal or Stripe are less private or less  
20 secure because Apple doesn't have sufficient data to know  
21 whether they're less private or less secure, correct?

22 A. Yes, correct.

23 Q. So I'd like you to turn then, Mr. Schiller, in your  
24 binder -- hopefully this one's there -- to CX-38.

25 (Exhibit published.)



(Off-the-record discussion.)

**BY MR. BORNSTEIN:**

**Q.** Great. Do you have CX-38 in front of you?

**A.** Yes, I do.

**Q.** All right. And CX-38, this is a page from Apple's website relating to the new entitlement program, correct?

**A.** Yes. It's a news story on our developer site.

**Q.** Great.

**MR. BORNSTEIN:** Your Honor, I'd move Exhibit CX-38 into evidence, please.

**THE COURT:** It's admitted.

(Plaintiff's Exhibit CX-38 received in evidence.)

**MR. BORNSTEIN:** Thank you.

(Exhibit published.)

**BY MR. BORNSTEIN:**

**Q.** Now, Exhibit CX-38, as you say, it's a news posting that Apple made on its site regarding this entitlement program, correct?

**A.** Yes.

**Q.** And it's dated January 16, 2024, when this program was put into effect upon the effectiveness of the Court's injunction, correct?

**A.** Yes.

**Q.** And in fact, this page even references the Court's decision, right? On that first line, it says, "Starting

1 today, because of a recent United States Court decision,"  
2 et cetera, et cetera. Correct?

3 A. Yes.

4 Q. All right. In this very document that was released in  
5 connection with the Court's injunction, Apple does make the  
6 claim that IAP is more secure and safer than other payment  
7 systems, correct?

8 A. I don't know. I would need a minute to read it again. I  
9 haven't seen it since this date.

10 Q. All right. Well, let me direct you to the first sentence  
11 of the second paragraph, Mr. Schiller. It says, "We believe  
12 Apple's In-App Purchase system is the most convenient, safe,  
13 and secure way for users to purchase digital goods and  
14 services." Correct?

15 A. Yes.

16 Q. And that's what Apple told developers the day that it  
17 instituted this program, correct?

18 A. Yes, that we believe that.

19 Q. Right. Apple made this data-free, evidence-free claim to  
20 developers upon the institution of the entitlement program,  
21 correct?

22 A. We just stated our belief, yes.

23 Q. Your belief for which you have no data to support,  
24 correct?

25 / / /

1       **A.** (Reviewing document.)

2           We have data to support how our own system protects  
3       customers but not about other people's -- other companies'  
4       systems.

5       **Q.** You have no data to support the idea that your system is  
6       the most safe or the most secure, correct?

7       **A.** I believe in the sense that we have released data about  
8       our payment system in terms of trust and safety, I have not  
9       seen others release similar data. So in the absence of other  
10      data, I know of no one else who has provided safer or more  
11      secure transactions than we have because I haven't seen any  
12      other payment provider release similar data.

13      **Q.** And so, Mr. Schiller, you don't have any comparative  
14      information, as Mr. Fischer already testified, between your  
15      system and others, correct? You just told us you don't have  
16      data about the others, right?

17      **A.** That's right. Yes.

18      **Q.** So you can't possibly claim with an evidentiary support  
19      that your system is safer or more secure, correct?

20      **A.** Only from the perspective that we release data about the  
21      safety of the system, and I have not seen others similarly do  
22      the same.

23      **Q.** Right. And in the absence of information from others, you  
24      have no basis to make a comparative statement, correct?

25      **A.** Well, it is a basis. Simply if somebody says I've

1 accomplished X, and X is the best, and no one else says, well,  
2 we have too, or we're even better, then I think that is a  
3 comparative statement, lacking any other evidence.

4 Q. Okay. The entire basis of your assertion here about IAP  
5 being the safest and securest system is the fact that you  
6 don't know and no one else has claimed -- you don't know data  
7 about the others, correct? And you know what yours is?

8 A. Yes.

9 Q. All right. And you have made this statement on the basis  
10 of no information about other payment systems in a document  
11 released in connection with the Court's injunction announcing  
12 this new program to developers, correct?

13 A. We made the statement about what we believe, yes --

14 Q. Yes.

15 A. -- in this news update.

16 Q. In the news update regarding this program regarding the  
17 Court's injunction, correct?

18 A. Yes.

19 Q. Right. And in this document, you make this statement in  
20 order to dissuade developers from taking advantage of the  
21 entitlement. That's why this is here, correct?

22 A. Not at all.

23 Q. And that's why you make the same warning to users in the  
24 warning screen, correct?

25 A. No.

1 Q. All right. What you're saying in the very document that  
2 you released in support of the Court's injunction is your  
3 evidence-free, your data-free belief about your own system,  
4 correct?

5 A. No. We're now competing to encourage developers to use  
6 our payment system, and we have a belief that we have values  
7 we bring to developers and users, and we're just stating our  
8 belief in those values.

9 Q. Mr. Schiller, last week on the stand you testified that  
10 you don't believe and you don't think about alternative  
11 payment systems in a link and IAP as competing with one  
12 another. Now they're competing?

13 A. I said a little more than that. I said that and some  
14 more. I think at -- as I said, at one level it's -- it  
15 clearly is competition, as you explained. It's a simple  
16 model. At one level, the developer is selling something on  
17 their site. And Apple is supporting it with IAP in an app.  
18 And that is competition.

19 But at another level, as has been explained here in this  
20 hearing, Apple has an interest in making sure this new program  
21 works and developers take advantage of it.

22 So at another level we want this to succeed. It's  
23 imperative that we help it succeed. And in doing so, that's  
24 now not competitive because we have the same interest.

25 Q. Mr. Schiller, should we put your testimony on the screen

1 from last week?

2 A. If you want. I remember it.

3 Q. All right. So you testified -- I asked you:

4 "Q. Do you consider transactions that are made through  
5 external purchase links to be in competition with transactions  
6 that are made through IAP?"

7 And your answer was:

8 "A. No, I've not thought of them in that term at all.  
9 No."

10 You gave that testimony, right, sir?

11 A. Yes. And then --

12 Q. All right. And after -- after the -- the week that you've  
13 had and whatever you've done in that week, you've now said you  
14 do have a sense in which the two compete, correct?

15 A. Yes. I actually thought about this a lot over the last  
16 week as I've been on my own with nobody to talk to about last  
17 week's testimony. I've actually thought about this question  
18 quite a bit.

19 Q. All right. And so having thought about it quite a bit, as  
20 you say, on your own, you're refining the testimony you gave  
21 last week about whether or not there is a competition -- your  
22 words -- at all, correct?

23 A. I'm expanding on it because I've thought more about it.

24 Q. Okay. Well, why don't we look, Mr. Schiller, while we're  
25 on the subject of competition -- I guess I should ask you.

1       You view purchase link -- is it that you view purchase  
2       link transactions -- I'll strike that. I'll come back to that  
3       issue.

4               **MR. BORNSTEIN:** Let me go back to the warning screen  
5       for a minute. If we can have that back up.

6                       (Exhibit published.)

7       **BY MR. BORNSTEIN:**

8       **Q.** The warning, screen, Mr. Schiller, it appears every time a  
9       user clicks on the link, right?

10      **A.** Yes.

11      **Q.** Even if the user has clicked on the link in the past and  
12      continued on to the website and made a purchase, the user is  
13      still displayed that link for all subsequent clicks.

14      **A.** Yes.

15      **Q.** Okay. And it appears even though the user will just have  
16      clicked on something that says, www.whatever-website.com with  
17      a little linkout icon, right?

18      **A.** Yes.

19      **Q.** Okay. And what this warning screen says is that any  
20      accounts or purchases made outside the app will be managed by  
21      the developer, and it goes on and talks about the risks and so  
22      forth of using an alternative payment system on the web,  
23      correct?

24      **A.** (Reviewing document.)

25       Yes.

1 Q. All right. And Apple has, in your testimony,  
2 Mr. Fischer's testimony, refrained from making any claim here  
3 to users, in your view, about Apple being the most secure or  
4 the safest?

5 A. Yes.

6 Q. Okay. But Apple did, in communicating to developers who  
7 might use the link, Apple did make precisely that claim,  
8 correct?

9 A. Again not precisely that claim. I think we've already  
10 read the language, and it's our belief in what we offer.

11 Q. All right.

12 Let's take a look, if you would, at CX-2 in your binder.

13 MR. BORNSTEIN: And this is already in evidence, Your  
14 Honor.

15 (Exhibit published.)

16 BY MR. BORNSTEIN:

17 Q. And I'd like to direct you to page .4 of CX-2. These are,  
18 Mr. Schiller, the -- this is the external purchase link  
19 entitlement addendum that developers sign if they are  
20 interested in pursuing a link, correct?

21 A. Yes.

22 Q. All right. And these are requirements that the developer  
23 has to follow if they would like to participate in this  
24 program, right?

25 A. Yes.



1 Q. All right. Take a look, if you would, at section 3.3  
2 which is in the middle of the page. And section 3.3 starts by  
3 saying, "The link you provide in your store kit external  
4 purchase link app under this addendum must...", colon, right?

5 A. Yes.

6 Q. And what follows the colon are a series of bullet points,  
7 all of which are requirements that the developer must follow  
8 with respect to the link, correct?

9 A. Yes.

10 Q. All right. And one of those -- we have it highlighted  
11 here, it's the second-to-last -- says that the link must not  
12 be displayed on any page that is part of an in-app flow to  
13 merchandise or initiate a purchase using in-app purchase,  
14 correct?

15 A. Yes.

16 Q. All right. And now developer -- this means, right, that  
17 developers cannot offer users a side-by-side option to either  
18 click on IAP or click on the external purchase link, right?

19 A. Yes.

20 Q. And developers actually cannot offer the website purchase  
21 link anywhere on the same page as the button that has IAP,  
22 right?

23 A. Correct.

24 Q. And it goes further and it says that the website purchase  
25 link not only can't be on the same page, but it can't be

1 anywhere in any page that is part of the in-app flow to get to  
2 IAP, correct?

3 **A.** The in-app flow once the purchase process has started, the  
4 merchandising of the item.

5 **Q.** Well, that's my question. What does that mean,  
6 Mr. Schiller? What does it mean that it can't be part of the  
7 in-app flow to merchandise or initiate a purchase using IAP?

8 **A.** There -- there's a distinction, I believe, between  
9 merchandising and marketing. So, for example, marketing would  
10 be, hey, we've got a new digital shirt you can buy for your  
11 character. That's marketing.

12 Merchandising, now you've begun the sales process. Get  
13 this shirt for 99 cents. And it's -- and that 99 cents is  
14 active and is a chance to start to sell it. You're now in the  
15 process to do an in-app purchase. You've begun the purchase.  
16 That's what the flow means. It's you've begun to actually  
17 make an in-app purchase.

18 **Q.** By clicking on something that takes you to a page down the  
19 road towards IAP?

20 **A.** Well, no. That actually displaying a price in many apps  
21 by clicking on it is the -- the -- the in-app purchase.  
22 You -- you then get a window that says do you want to confirm  
23 your purchase and so on. It literally can be the purchase.

24 **Q.** And so the page that has even the price on it is part of  
25 this flow where the external purchase link cannot appear?

1     **A.** If it's part of the process to begin the purchase directly  
2     with in-app purchase, we have to define somewhere that's  
3     in-app purchase to maintain that ecosystem. And so it's -- so  
4     the logical place is once the developer is showing the actual  
5     purchase price as an action that they can take, the user can  
6     pay for something, that is the in-app purchase in the app.

7     **Q.** So let me make sure I -- I have this.

8             So you're familiar that there are apps that have item  
9     stores, correct?

10    **A.** Yes.

11    **Q.** And so a user can go in and maybe it's a game and they can  
12    choose from among different items that they are able to use in  
13    the game and acquire that content, correct?

14    **A.** Yes.

15    **Q.** All right. And in those item stores, there may be, just  
16    like in a physical store, a number of things that you can  
17    purchase, and each one of those things will have a price  
18    attached to it, correct?

19    **A.** Yes.

20    **Q.** So if a user is in that item store browsing, just like  
21    they would be in a retail clothing store, are they in the  
22    in-app flow at that point or not?

23    **A.** Yes, they are.

24    **Q.** Okay. So in the store when a user is looking around and  
25    assessing the items that might be of interest to him or her

1 and what they cost, the link to an external website cannot  
2 appear anywhere in the store, correct?

3 A. Correct.

4 Q. Okay. Now, you're -- you mentioned marketing. You -- you  
5 have some background in marketing, right, Mr. Schiller?

6 A. Some.

7 Q. Okay. Understatement of the day.

8 You're familiar with the concept of comparison shopping,  
9 right?

10 A. Yes.

11 Q. All right. In order for users to make an informed  
12 decision about their choices, it helps to be able to see both  
13 choices at the same time; fair?

14 A. Yes.

15 Q. All right. So when I'll use my retail clothing store  
16 example, you go in, you're buying a pair of pants, you'd like  
17 to see the various options so you can see which one has, you  
18 know, a better style or better fit for you, correct?

19 A. Correct.

20 Q. And that's better than having a bunch of pants in front of  
21 you and -- having one pair of pants in front of you and  
22 another one, you know, like back in the other room where you  
23 can't look at them together, right?

24 A. Yes.

25 Q. And if you go to the counter to pay for the pants that you

1 select, you can make a more informed choice about how to pay  
2 for them if your payment options are presented there at the  
3 register at the same time rather than, say, having to remember  
4 a sign that might be out at the front of the mall before you  
5 walked in, right?

6 **A.** Sure. Now you're describing two in-app purchase systems.

7 **Q.** Correct. There's two -- there's two options for paying at  
8 my retail counter, right? You can pay with credit card A, you  
9 can pay with credit card B, maybe you can pay with cash, maybe  
10 you can pay with a debit card. Those are all presented to you  
11 as options at the time, right?

12 **A.** But that's not what this is about. This isn't about --

13 (Simultaneous colloquy.)

14 **BY MR. BORNSTEIN:**

15 **Q.** Well, Mr. Schiller, one thing at a time.

16 **A.** Sure.

17 **Q.** Okay?

18 Am I right that when you go to the retail store, you  
19 have -- you know, you can have a bunch of options about your  
20 methods of payment, correct?

21 **A.** Yes. In retail stores you can have that.

22 **Q.** Yes. And it is easier in a retail store to make an  
23 informed choice about your different options of payment if  
24 they are there in front of you at the same time rather than  
25 having to remember something that you saw out front on a sign

1 before you walked into the mall, correct?

2 A. Correct.

3 Q. That would be easier?

4 A. Yes.

5 Q. Okay. Proximity effectively makes a difference, right?

6 (Simultaneous colloquy.)

7 BY MR. BORNSTEIN:

8 Q. -- easier for people to shop if they have that  
9 information.

10 What this payment flow guideline or requirement that we  
11 just talked about is it prohibits users who are standing there  
12 in the shop from being told while they are in the shop that  
13 there is another option besides IAP, correct?

14 A. Correct.

15 Q. You know that the Court found in its order in this matter  
16 that Apple's anti-steering provisions unlawfully hide critical  
17 information from consumers. You remember that?

18 A. Yes.

19 Q. Okay. And what this restriction we just talked about does  
20 is it hides information from consumers at the precise time  
21 that that information would be most useful to them, correct?

22 A. Possibly sometimes, not always.

23 Q. All right. Let me talk about the justification for this.

24 Before I do, let me just make sure I get that last piece.

25 When you're in the store, that's what -- when you're

1 looking at the item shop, you're looking at the prices, that's  
2 when it would be most useful for you to know what your choices  
3 are, correct?

4 **A.** Yes.

5 **Q.** And that is precisely when you tell developers they cannot  
6 share that information with users, right?

7 **A.** Correct.

8 **Q.** All right. So let's talk about the justification for this  
9 restriction.

10 We talked a little bit about the notice of compliance  
11 document that Apple filed back on January 16. Do you recall  
12 that?

13 **A.** Yes.

14 **Q.** All right. And you told me you're not a lawyer, you don't  
15 remember the details, but you did review it; fair?

16 **A.** Yes.

17 **Q.** All right. So if you don't remember the details, do you  
18 remember the specific rationale that Apple articulated in its  
19 filing for this particular restriction, the in-app payment  
20 flow?

21 **A.** Not specifically, no.

22 **Q.** Neither do I. Would it surprise you, sir, Apple did not  
23 actually include in its filing a specific rationale for this  
24 restriction at all?

25 **A.** Again, I don't recall.

1 Q. All right.

2 Are you aware -- I'll try a slightly different question --  
3 that what Apple did in its notice of compliance filing is it  
4 gave a list of rationales for all of those various things in  
5 section 3.3, all those bullet points that we saw, and never  
6 told the Court why specifically this payment flow restriction  
7 was justified; did you know that?

8 A. No. And again without reading it, I don't recall the  
9 context.

10 Q. Okay. Do you know whether that is -- what I just said is  
11 also true for the opposition brief that Apple filed in  
12 connection with this motion to enforce the injunction?

13 A. No, I do not.

14 Q. All right. Well, why don't I help you a little bit. We  
15 can walk through some of the justifications that Apple offered  
16 in its brief for the entirety of 3.3, not limited to this  
17 specific payment flow restriction.

18 THE COURT: Mr. Bornstein, hold on.

19 (Pause in the proceedings.)

20 THE COURT: All right. Mr. Bornstein, proceed.

21 MR. BORNSTEIN: Thank you, Your Honor.

22 Q. So let me go through some of the justifications that Apple  
23 offered for the entirety of 3.3.

24 One of the justifications was that section 3.3 was  
25 offered -- one of the justifications that was offered for



1 section 3.3 was to minimize fraud and scams. You understand  
2 what I'm telling you about the brief?

3 **A.** Yes.

4 **Q.** Okay. Now, an external purchase link doesn't become any  
5 more fraudulent or scammy if it appears on the same page as an  
6 IAP button as if it appears in some other page within the app,  
7 correct?

8 **A.** I do think there's a trust issue. But be happy to explain  
9 that if you would like. But I do think there's a potential  
10 trust risk here.

11 **Q.** I didn't ask you about trust risk. I asked you about  
12 fraud and scams.

13 **A.** Well, fraud is about trust.

14 **Q.** Well, trust is about what the user thinks, right?

15 **A.** And whether they get what they thought they were getting,  
16 yes.

17 **Q.** Right. Fraud is about whether the developer is engaging  
18 in some kind of fraudulent conduct, right?

19 **A.** Yes.

20 **Q.** Right. So the likelihood that a particular link will  
21 bring a user to some kind of fraudulent conduct or scam does  
22 not increase by having that link appear on the same page as  
23 IAP, correct?

24 **A.** I believe it can.

25 **Q.** You believe that it will increase the possibility that the

1 developer is engaging in fraud?

2 A. Yes.

3 Q. Okay. The link that appears on the same page as IAP, it's  
4 the same link that's going to appear on some other page,  
5 because Apple reviews it, right?

6 A. Yes.

7 Q. Apple doesn't let people put a link into -- Apple doesn't  
8 let developers put a link into their app under this program  
9 unless Apple looks at the link and signs off on it, correct?

10 A. True.

11 Q. So Apple will have the same ability to sign off on a link  
12 that appears on a page with IAP as it has to sign off on a  
13 link that appears on some other page, correct?

14 A. That is true.

15 Q. The only difference between the two is user perception,  
16 right? The link itself is the same; fair?

17 A. And confusion, yes.

18 Q. All right. Well, we'll get to confusion. Right now we're  
19 talking about fraud. Confusion is out there.

20 A. Confusion is part of how fraud is perpetrated in payments.

21 Q. All right. I promise you we'll get to confusion.

22 Is there anything other than the risk of confusion,  
23 though, that you're saying increases the likelihood of fraud  
24 here?

25 A. I think that's the key element.

1 Q. Okay. So it's confusion.

2 A. Yeah.

3 Q. And the confusion you're talking about is the possibility  
4 that a user might click on the link rather than IAP without  
5 realizing what they're doing?

6 A. They may not understand which purchase method is now  
7 in-app purchase and which isn't, that's correct.

8 Q. Okay. And you think a user is not going to understand  
9 which is which even though you pop up the warning that we just  
10 looked at telling them that they're leaving the system, right?

11 A. That's right.

12 Q. And you think users may not know which is which even  
13 though you require the link to the external website to be  
14 spelled out www.whatever-website.com with an icon indicating a  
15 linkout, correct?

16 A. Yes.

17 Q. And you think people may not know which is which even  
18 though the IAP is in a nice big attractive button and the link  
19 is required to be just what you call a plain button and the  
20 rest of the world calls just a link, right?

21 A. Yes. I think if we're in one buy flow with a user making  
22 a purchase and you see a button for -- and, again, we don't  
23 design the buttons for the IAP, the developer does, however  
24 they choose to make it look, for 2.99 and there's another  
25 button there that says get it at -- for, you know, 1.99 on the

1 website the user sees them.

2 However the developers design them on the same page, there  
3 is risk of confusion and the user will get a pop-up that warns  
4 them that that purchase that they maybe didn't realize meant  
5 leaving the app, will leave the app.

6 And we've all seen many cases where people click through  
7 those screens anyway without thinking about it and go ahead,  
8 and I think there's greater risk.

9 Q. All right. And so the risk arises from the fact that if  
10 the link is on the same screen as IAP, there is a greater  
11 likelihood that a user will click that link, right?

12 A. No. There's a greater likelihood of confusion.

13 Q. There's a greater likelihood that the user will click the  
14 link. You're saying because they might be confused, but there  
15 is a greater likelihood of clicking if they're together on the  
16 same page, correct?

17 A. Well, again in our model, it's not on the page. So by  
18 definition there's a likelihood it will be clicked which is  
19 greater than zero. So, yes, there's greater.

20 Q. Mr. Schiller, we're not communicating. I'll try it again.

21 In a world in which Apple were to allow purchase links to  
22 be on the same page as IAP, there is a greater likelihood that  
23 the links would be clicked as compared to the world in which  
24 those links are required to appear on some other page  
25 somewhere in the app that the user has to go to under your

1 program, right?

2 A. Not necessarily, no.

3 Q. You think it's not as likely that somebody would click on  
4 the link with IAP; that's your testimony?

5 A. I think there are good examples I can provide where the  
6 developer can place it in an advantageous position before the  
7 user even goes into the in-app purchase flow in front of it,  
8 and then will get the user to go to the website before they've  
9 even presented with an in-app flow, in which case they may be  
10 more likelihood to click -- more likely to click those.

11 So I can't say with certainty that what you're proposing  
12 means on in the buy flow will always be more clicks than in  
13 front of the buy flow, for example.

14 Q. Okay. We'll get to some of those examples. They're in  
15 your -- they're in your materials that you make available to  
16 developers, right?

17 A. Yes.

18 Q. And just to make sure it's very clear before we get to the  
19 examples, your testimony is that it is possible, not certain,  
20 possible that if a developer puts one of these links earlier  
21 in the app when there's not yet the store, that it is possible  
22 that users would be more likely to click that link than they  
23 would if the link appeared at the time that they were actually  
24 making a purchase.

25 A. Yes, it's definitely possible.

1 Q. Okay. We will come back to that. Let's -- let's talk  
2 about confusion a touch more.

3 There are other circumstances where Apple presents in --  
4 or Apple allows developers to present in an app an Apple  
5 choice of some feature side by side with choices presented by  
6 other developers or platforms, right?

7 A. I'm not sure what you're referring to.

8 Q. Okay. I'll try and help.

9 You're familiar with something called "Sign in with  
10 Apple"?

11 A. Yes.

12 Q. All right. That's a feature that Apple makes available so  
13 that users, if they want to, can have a secure sign-in option  
14 that runs through Apple's system, correct?

15 A. Yes.

16 Q. All right. And you're aware that other companies offer a  
17 similar feature, correct?

18 A. Yes.

19 Q. There's "Sign in with Google," "Sign in with Facebook,"  
20 and so forth, right?

21 A. Yes.

22 Q. And those are options that a user can take advantage of  
23 when the user is in an iOS app, right?

24 A. Yes.

25 Q. So you're on your iPhone and you pull up your app, you can

1 press "Sign in with Google," instead of "Sign in with Apple,"  
2 right?

3 A. Yes.

4 Q. And what Apple says to developers in the user interface  
5 guidelines that Apple makes available is that those different  
6 options, the Apple option and the others, can and should be  
7 presented side by side at the same time so a user can make a  
8 choice; isn't that right?

9 A. That's right.

10 Q. All right. When Apple is interested in presenting users  
11 with a choice, with options, it does that without risk of  
12 supposed confusion. But when it is a competing purchase link,  
13 Apple insists that it not be on the same page, correct?

14 A. Well, these -- these are not comparable situations. But  
15 both of those two situations exist, but they're not  
16 comparable.

17 Q. Right, they're not comparable because -- in your mind  
18 because the user needs to have those various options at the  
19 time the user is signing in, in order to make the sign-in  
20 experience for the user more convenient and more easy, right?

21 A. No. That's not how we got to that.

22 Q. Well, you want -- excuse me. You want users, when they're  
23 signing in, to have their choices presented to them so that  
24 they're able to take advantage of the sign-in features that --  
25 that they've signed up for, right?

1     **A.** No, no. It had -- nothing to do with that. The ability  
2     to sign in with Google and to sign in with Facebook predated  
3     our "Sign in with Apple" feature. And those were prevalent  
4     across apps where small developers couldn't create their own  
5     authentication system and so they had to prefer to somebody,  
6     and they used Google or -- or Facebook.

7             We had a lot of complaints from users that they wanted an  
8     Apple solution offered as well because they didn't trust those  
9     companies entirely with having their personal log-in  
10    information to apps that had nothing to do with those  
11    companies.

12            So Apple created an additional mechanism, "Sign with  
13    Apple," and asked developers that if you're going to use a  
14    third-party sign-in, please add the "Sign in with Apple" as  
15    well into that experience.

16            So we were adding "Sign in with Apple" to something that  
17    predates it and existed across all these apps, and that was  
18    the methodology for it and that's how we got to that place.

19    **Q.** Right. I agree with all that, Mr. Schiller. So when  
20    Apple decided it would introduce a new feature, Apple insists  
21    that developers present Apple's feature, "Sign in with Apple,"  
22    side by side with the other features that predated it. That's  
23    what you're telling me, right?

24    **A.** Yes.

25    **Q.** And when Apple doesn't want the new feature to be used



1 side by side, when Apple has an external purchase link forced  
2 on it by the Court, it does the opposite, it doesn't have them  
3 together, right?

4 **A.** It's not about being forced to do it or not and want to do  
5 it or not. It's about we were maintaining the ecosystem of  
6 in-app purchase, and this ruling was to provide a method so  
7 all users can know about other options outside of the app.

8 And these are two very different things. They're not  
9 equivalent like two different ways to sign into the same app,  
10 which are very equivalent things. These are two completely  
11 different things. Leave the app to go pay for something or  
12 pay within the app. They're completely different scenarios.

13 **Q.** They're two competing scenarios.

14 **A.** They're completely different scenarios.

15 **Q.** They're two competing scenarios, yes or no, Mr. Schiller?

16 **A.** Competing and very different.

17 **Q.** They're two different competitors, they're competing  
18 scenarios, right?

19 **A.** They are competing --

20 **Q.** Okay.

21 **A.** -- but different.

22 **Q.** There are, on the subject of maintaining, as you said, the  
23 IAP ecosystem, one of the justifications that actually appears  
24 in the document is -- in the brief that Apple filed is Apple's  
25 interest in maintaining a consistent user experience. Is that

1 a fair explanation of one of your rationales?

2 **A.** Well, I think that was more referring to the template for  
3 how linkouts would look so to be consistent for the users as  
4 they see them in multiple apps to recognize and understand,  
5 ah, that's what that is. That was the consistency I think we  
6 were mostly referring to.

7 **Q.** Okay. So just to make sure we've got it clear, the  
8 consistent user experience rationale, that doesn't apply to  
9 this restriction on the placement of the apps in the buy flow,  
10 as you put it?

11 **A.** I believe, and I'd like to read the context again, so we  
12 can make sure my recollection is correct, but I believe we're  
13 referring to the templates and the linkout design. But I'd  
14 like to see it again to be sure.

15 **Q.** Mr. Schiller, I'm not asking you about the content of the  
16 document. I'm asking you as the person who, among others,  
17 signed off on this whole thing finally.

18 Is a consistent user experience part of the rationale --  
19 is maintaining a consistent user experience part of the  
20 rationale for the buy flow restriction or not?

21 **A.** So you're asking me generally, not with what was in the  
22 documents that you were referring to earlier?

23 **Q.** Correct. I'm asking you as the guy who signed off on this  
24 or what your rationale was --

25 **A.** Yes.

1 Q. -- and Apple's rationale?

2 A. Signing off on this, I don't know whether you mean this as  
3 the whole process or the documents that you were referring to.  
4 I'm confused by that.

5 Q. I'll be super clear, I hope.

6 Mr. Schiller, is maintaining a consistent user experience  
7 one of the rationales for Apple's decision to include this buy  
8 flow restriction that we've been talking about; yes or no?

9 A. Yes, I think the consistent experience of in-app purchase  
10 is one thing that we'd like to maintain through this process.

11 Q. Okay. Now tell me consistent with what?

12 A. Consistent with the fact that when the user goes into an  
13 in-app purchase, it is the only in-app purchase method. And  
14 so 15 years of being used to that when I make an in-app  
15 purchase, that that's a purchase I'm doing with my account  
16 with Apple and that that is understood.

17 Q. So the idea is it's consistent with past practice and what  
18 people have come to be familiar with in using their phones.

19 A. With -- with Apple and with an iPhone, I know as a user  
20 that when I download an app from the App Store and I make an  
21 in-app purchase, that in-app purchase is with my Apple  
22 account. I'm familiar with that. I know that. And I expect  
23 that. And so not ruining that expectation by having something  
24 that looks like in-app purchase now not be in-app purchase.

25 Q. I think the answer to my question was yes, Mr. Schiller.

1 What you're talking about when you're saying a consistent user  
2 experience is consistency from the user perspective with what  
3 the user experienced in the past, right?

4 **A.** With their trust and expectation of that, yes.

5 **Q.** Right. And you understand that the whole point of  
6 injunction is to make a change, right?

7 **A.** Yes.

8 **Q.** It's not to maintain what's been happening before, right?

9 **A.** A change to -- for communication of out-of-app offers, not  
10 to replace in-app purchase.

11 **Q.** Absolutely right. A change in terms of how purchasing  
12 options should be communicated to users.

13 **A.** Yes.

14 **Q.** Okay. Do you remember, by the way, on this subject last  
15 week we had some discussion about whether requirements in  
16 other jurisdictions -- we talked about the Netherlands and  
17 Korea -- to have alternative payment systems and linkout  
18 options detract from the App Store? Remember we talked about  
19 that?

20 **A.** Briefly, yes.

21 **Q.** All right. And you testified that you don't actually  
22 personally have a preference against linkouts, right?

23 **A.** That's right.

24 **Q.** Okay. And you do, though, have a preference against  
25 having the linkouts on the same page where the customer has

1 IAP; we talked about that too, right?

2 A. Yes.

3 Q. Okay. And you also testified that you don't believe that  
4 the requirements for linkouts and alternative payments in the  
5 Netherlands and Korea detracted from users' experience on the  
6 App Store; that's what you said last week, correct?

7 A. I don't think they have yet, yes.

8 Q. Well, your testimony -- I can -- I can show it to you if  
9 you like. You were asked the question: You believe the  
10 requirements in Korea and in the Netherlands detract from the  
11 users' experiences in the App Store; is that correct?

12 And you testified you didn't recall that statement.

13 Is that accurate?

14 A. I -- if -- if you say so.

15 Q. Okay.

16 A. I don't remember the exact words we had then.

17 Q. Well, let me go on.

18 Because I then asked you: Well, do you believe that to be  
19 true, that those requirements detract from users' experience  
20 in the App Store?

21 And you said: No, I do not believe that right now, no.

22 Do you stand by that testimony?

23 A. Yes. And I think that's the same right now and yet are  
24 the same point.

25 Q. Right. And I asked you also whether you had changed your

1 mind and whether, you know, some point in the past they might  
2 have detracted from the App Store and -- and now they no  
3 longer do. And you -- you said the answer to that was no as  
4 well.

5 And do you stand by that too?

6 **A.** Yes.

7 **Q.** Okay. Now, you testified recently, last month, in fact,  
8 in a trial in Australia, correct?

9 **A.** Yes.

10 **Q.** And in advance of that testimony, Mr. Schiller, you  
11 submitted a written declaration to the court, correct?

12 **A.** Yes.

13 **Q.** And that was a declaration that you submitted under oath;  
14 am I right?

15 **A.** I think it was an affidavit is the term. But again I'm  
16 not the expert on this.

17 **Q.** I won't quibble with you. I'm not an expert on Australian  
18 law either. I'll do it this way.

19 You submitted a document to the court that you swore to be  
20 true, correct?

21 **A.** Yes.

22 **Q.** Okay. Can we look at CX-181 in your binder, please?

23 **THE COURT:** Is this the original binder or the  
24 supplement?

25 **MR. BORNSTEIN:** The original, Your Honor.

1                   **THE WITNESS:** (Reviewing document.)

2                   **BY MR. BORNSTEIN:**

3                   **Q.** Do you have that, Mr. Schiller?

4                   **A.** I do have that document.

5                   **Q.** Okay. And CX-181, this is a copy of that sworn testimony  
6 that you submitted to the court in Australia, correct?

7                   **A.** Yes.

8                   **Q.** All right.

9                   Can you look at paragraph 167 of that document, please?

10                  **A.** (Reviewing document.)

11                  **THE COURT:** Do I have a version that is not redacted?

12                  **MR. BORNSTEIN:** If you don't, Your Honor, we will get  
13 you one.

14                  **THE COURT:** Yeah, everything in here is -- I have  
15 just the redacted version.

16                  So you said 167?

17                  **MR. BORNSTEIN:** 167, yes. That paragraph, I hope, is  
18 not redacted, Your Honor.

19                  **THE COURT:** It's not.

20                  **MR. BORNSTEIN:** Great.

21                  And we can certainly get you a --

22                  **THE COURT:** Thank you.

23                  **MR. BORNSTEIN:** -- full version. We've just been  
24 trying to maintain the confidentiality requirements in  
25 Australia as well. Obviously Your Honor is an exception.

1 Q. Paragraph 167, Mr. Schiller, you testified to the court in  
2 Australia, and now I'm turning -- and I lost my page,  
3 Mr. Schiller.

4 You testified to the court in Australia --

5 (Pause in the proceedings.)

6 **BY MR. BORNSTEIN:**

7 Q. Forgive me.

8 "In my view, these changes in the Netherlands and South  
9 Korea compelled by regulatory change detract from the seamless  
10 experience that users have come to expect from the App Store  
11 and increase the risk to users of fraud and privacy  
12 violations."

13 Correct?

14 A. That's right.

15 Q. All right. So you told the court in Australia, when the  
16 issue had to do with whether or not there were antitrust  
17 violations in the IAP system, that these requirements  
18 detracted from the user experience. That was your testimony  
19 there, correct?

20 A. That's right.

21 Q. And your testimony here when your compliance with one of  
22 these linkout requirements is being challenged is that they  
23 don't currently detract from the experience of the App Store,  
24 correct?

25 A. Well, I think a big difference from what I say in the



1 document and what you're saying --

2 (Simultaneous colloquy.)

3 **THE WITNESS:** You're not being consistent with what I  
4 wrote.

5 **BY MR. BORNSTEIN:**

6 **Q.** Mr. Schiller, let's take it one step at a time.

7 What you wrote was the changes in the Netherlands and  
8 South Korea detract from the seamless experience that users  
9 have come to expect from the App Store. Correct?

10 **A.** Yes.

11 **Q.** All right. And here your testimony was the opposite?

12 **A.** About linkouts. I'm not writing just about linkouts here.  
13 This is about alternate payment methods within an app.

14 **Q.** All right. Fair --

15 **A.** Very different scenario.

16 **Q.** Fair enough.

17 Is it your testimony that your statement here in Australia  
18 was limited, limited to alternative payment systems?

19 **A.** No. It was the combination of everything I list above it,  
20 which is alternate payment systems with alternate linking out  
21 and all combined together to create a new experience. I'm  
22 talking about the totality. I'm not breaking out one -- one  
23 factor or another.

24 **Q.** Right. So just if we can be clear, your testimony now is  
25 the linkouts themselves don't detract from the user

1 experience, yes?

2 A. Done in the way that we've defined, I don't think they do.

3 Q. Ah. Okay, we'll come back to that.

4 (Simultaneous colloquy.)

5 BY MR. BORNSTEIN:

6 Q. Your testimony in Australia was the linkouts together with  
7 these other things as a whole detracted from the user  
8 experience. That's what you're telling us?

9 A. Yes, I believe so.

10 Q. Okay. Let's come back to the point you just made about  
11 the way you have implemented the links here.

12 A. Yes.

13 Q. This is the point, or at least in part, this is the point  
14 you made about having a consistent experience with what users  
15 have come to expect from the App Store -- excuse me -- from  
16 IAP from their experience over the past several years,  
17 correct?

18 A. Well, it's a bunch of things we've talked about. I think  
19 that summarization is less than what I was talking about.

20 Q. All right. Well, we'll -- we'll come back to some of  
21 those other -- other pieces of the -- of the program. We can  
22 actually talk about one -- one now.

23 Let's go to CX-2 again. This is the addendum already in  
24 evidence.

25 (Exhibit published.)

1 **BY MR. BORNSTEIN:**

2 **Q.** And I want to go back to section 3.3.

3 It's also on your screen if it's easier. Up to you.

4 **A.** (Reviewing document.)

5 Okay.

6 **Q.** Great. Section 3.3, now I'm looking at the prior bullet,  
7 the one just before the one we had been looking at. It's  
8 highlighted on the screen if it's easier.

9 **A.** Yes, I see it.

10 **Q.** Okay. This is a provision that says that developers must  
11 not display their link -- sorry -- must display their link on  
12 no more than one app page that the end user navigates to and  
13 not an interstitial, a modal, or a pop-up, correct?

14 **A.** Yes.

15 **Q.** Okay. And so to be clear what that means, it's that the  
16 user independently has to bring themselves to the page on which  
17 the link appears, and it can't be a page that the app kind of  
18 serves up to the user as a pop-up or in some other way; is  
19 that a fair summary?

20 **A.** Not entirely.

21 **Q.** What -- what's wrong about what I said?

22 **A.** Well, navigation can happen in a number of different  
23 means. I'm not limiting how the user ends up on a spot.

24 Which is different than the system creating a pop-up. And so  
25 I don't think I would describe it quite as you did, in the way

1 you -- the way you just did that.

2 Q. Well, let's break it down, make sure we have it right.

3 The link has to be on a page that the user navigates to on  
4 their own, right?

5 A. No. For example, let's say you played a level of a game.  
6 At the end of the level, it could -- the level could end and  
7 you can now land on a screen that says, hey, you want to buy  
8 more levels, we have them on our site at a great deal.

9 And so the user got there -- they didn't have to click a  
10 button to get there. They just navigated by means of just  
11 normal use of the app, they're there. And I think that's --  
12 that would fit this description as well.

13 I think the term "navigate" can be a much broader use case  
14 than you made it sound.

15 Q. All right. So your understanding of this requirement is  
16 that it's okay for a link to appear on a screen that a user  
17 arrives at through progressing through an app?

18 A. Yes.

19 Q. Okay. And your testimony is that developers should  
20 understand that that's what's meant by a page that an end user  
21 navigates to?

22 A. I hope so. But we can always help them make it clear if  
23 that's what we need to do.

24 Q. Okay. I think that might be helpful for developers, but  
25 I'm not the one who gets to figure that out either.

1           What you can't do, however, is you can't have a pop-up  
2           with the link in it, correct?

3           A. That's right.

4           Q. And you can't have what Apple describes as a modal,  
5           M-O-D-A-L, with the link in it, correct?

6           A. That's right.

7           Q. And just so we're all clear, what is a modal?

8           A. A modal is a secondary window that will appear on top of  
9           the user experience. And user -- it will not go away till the  
10          user interacts with it in some way.

11          Q. Okay. So let's -- let's understand the scope of this  
12          restriction. As a general matter, aside from these purchase  
13          links, developers are permitted to present screens to users in  
14          the app. You can have a modal, you can have a pop-up  
15          generally, right?

16          A. Yes.

17          Q. Okay. And you can have a modal or a pop-up that presents  
18          a user with a link to IAP, correct?

19          A. Yes.

20          Q. So there are -- I have one of these fitness apps where it  
21          pops up trying to get me to sign up for the premium version.  
22          And that's allowed, it can pop up and do that if I use IAP for  
23          the sign-up, right?

24          A. Yes.

25          Q. And it's not limited to IAP. Apps can present screens to

1 users that allow for purchases of physical goods, right?

2 A. Yes.

3 Q. And those can be pop-ups or modals?

4 A. Yes.

5 Q. And apps can also present screens to users that have links  
6 to websites that are not purchase links, links to other pages  
7 on a website like a customer support page or privacy policy or  
8 something like that, right?

9 A. Yes.

10 Q. It's only the purchase links that are restricted in this  
11 way, right?

12 A. Correct.

13 Q. We had some discussion -- not you and I. Others in this  
14 courtroom had some discussion earlier about the number of apps  
15 for which developers have so far submitted an application for  
16 one of these entitlements. Do you recall that?

17 A. Yes.

18 Q. Yeah. And the number, at least that Mr. Fischer gave us  
19 and the document we got, is that there were 38 apps, right?

20 A. That's right.

21 THE COURT: Can I interrupt you? Because you went to  
22 modal. Interstitial, do we know -- can I know what that is?

23 BY MR. BORNSTEIN:

24 Q. Let's ask Mr. Schiller.

25 A. An interstitial would be you -- I think you're navigating

1 somewhere, but before you go there, a page interrupts in the  
2 middle of it and says wait a minute, we want to show you this  
3 and then we'll let you go on. And that would be an  
4 interstitial. It's not expected.

5 **THE COURT:** And is that -- the testimony then the  
6 same, that you use it in all sorts of other circumstances  
7 except for purchase links?

8 **THE WITNESS:** Yes, that is true. I can't think of an  
9 example --

10 **THE COURT:** Including IAP?

11 **THE WITNESS:** It's possible.

12 **THE COURT:** Physical goods?

13 **THE WITNESS:** It's possible.

14 **THE COURT:** Can you think of any situation where it  
15 is restricted other than purchase links?

16 **THE WITNESS:** No.

17 **THE COURT:** Proceed.

18 **MR. BORNSTEIN:** Thank you, Your Honor.

19 **Q.** Thirty-eight apps, right? That was the number that we  
20 heard that have so far applied for a purchase link  
21 entitlement, right?

22 **A.** Yes.

23 **Q.** And I don't know, have you looked at the list of the  
24 38 apps that Apple has provided to us and to the Court?

25 **A.** I have not.

1 Q. Okay. I hope you take my word for this. The 38 apps,  
2 there are actually 37 developers. There's one developer that  
3 submitted for more than one app. Now, you can do that, right?  
4 You can submit for more than one app as a developer?

5 A. Yes, as many as you'd like.

6 Q. Okay. And are you aware that Apple has informed the Court  
7 and us during the proceedings that there are over 135,000 apps  
8 on the U.S. storefront of the App Store that had at least one  
9 app purchase available in the past three months or so?

10 A. Yes, I did hear that.

11 Q. Okay. So we can, I hope, at least agree that it's just a  
12 tiny fraction of those apps that have so far applied for one  
13 of these entitlements, right?

14 A. Yes.

15 Q. Now are you aware that that number, even that tiny  
16 fraction, is substantially overstated?

17 A. No, I'm not aware.

18 Q. Well, you told me you haven't looked at the list, but did  
19 you know that four of the 38 apps aren't even on the  
20 App Store?

21 A. No. They can still apply.

22 Q. Right.

23 A. Because they may be planning to submit an app. I don't  
24 know.

25 Q. All right.



1           So the -- of the 136,000 or so, that's only apps already  
2           on the store, right? That's what we were told.

3           A.    Okay.

4           Q.    Is that consistent with your understanding, sir?

5           A.    I believe that's what that number was, yes.

6           Q.    Okay. So of that 136,000, if I'm right that four of them  
7           are not currently on the store, it's not 38, it's just 34,  
8           correct?

9           A.    Correct.

10          Q.    All right. And then are you aware that of the remaining  
11          34, 17 do not currently offer any in-app purchases?

12          A.    I am not aware.

13          Q.    Okay. But a user -- excuse me -- a developer can apply  
14          for the link even if they don't currently offer an in-app  
15          purchase, right?

16          A.    Correct. That's -- there's no requirement like that.

17          Q.    Right. So the denominator that Apple has given us of  
18          136,000, that's actually too small of a denominator because  
19          the apps that are eligible to apply for this are not just  
20          those 136,000, it's also, like you said, apps that don't have  
21          in-app purchase and even apps that aren't yet on the store,  
22          right?

23          A.    Possibly.

24          Q.    All right. So the 38 out of 136,000, as small as it is,  
25          that's actually still too big to be accurate of the fraction,

1 correct?

2 **A.** Yes.

3 **Q.** All right. And as we established, and I assume you still  
4 agree, there's still to this day not a single developer that  
5 has submitted an app for approval for one of these purchase  
6 links, right? Actually submitted an app for review.

7 **A.** I am not aware that any have.

8 **Q.** Okay. And you told me you haven't looked at the list so  
9 maybe we can skip some of these questions. But do you know  
10 who the 37 developers are who are on that list?

11 **A.** No, I do not.

12 **Q.** Are you -- and we're not allowed to say them out loud, by  
13 the way, so I just want to make sure we don't slip. Apple has  
14 claimed confidentiality.

15 Are you aware whether any of those developers is on the  
16 list of 200 top grossing apps that we were given for fiscal  
17 year 2022?

18 **A.** Again, I do not know the list. And I -- so I couldn't  
19 answer that.

20 **Q.** Okay. Fair.

21 Can we agree that the top 200 are among the most  
22 sophisticated developers on the App Store?

23 **A.** I -- I wouldn't want to say that and -- and besmirch other  
24 developers who are not on it. So I'd just rather say they're  
25 the top 200.

1 Q. Okay. As we sit here now, not one of those -- not one of  
2 those top 200 or any other app has submitted for one of these  
3 entitlements, has -- excuse me -- has submitted an app for  
4 review, correct?

5 A. Not to my knowledge.

6 Q. All right. And will you take my word for it that none of  
7 the top 200 even submitted an application?

8 A. I -- sure, I'll take your word for it.

9 Q. Okay.

10 A. I don't know myself.

11 Q. No, I understand.

12 And there's been some testimony, and you've heard it and I  
13 want to ask you your view. Does the fact, yes or no, that so  
14 few developers in the four months that this program has been  
15 available, that so few have even applied, does that say  
16 anything to you at all about the attractiveness of this option  
17 to developers?

18 A. Not entirely. It says a lot of things to me, but -- but  
19 that isn't the first thing I would go to.

20 Q. Okay. And you heard at least Mr. Oliver testify that  
21 there's been in the past a ramp-up of developer interest in  
22 other features that Apple has introduced, correct?

23 A. Yes, I have firsthand experience on this myself, yes.

24 Q. And what that means, just to make sure we're  
25 communicating, is sometimes when Apple introduces a new

1 feature, there is a small number -- or there are a small  
2 number of developers who express interest in the beginning,  
3 and over time more people come forward and express interest.

4 **A.** I would go further. My experience is that sometimes in  
5 rolling out a new program, oftentimes it actually takes a lot  
6 of hard work to get it up to speed and to get developers to  
7 understand it and be interested in it and take advantage of  
8 it. It -- it takes work.

9 **Q.** Right. So Apple invests time and energy and resources  
10 encouraging and educating developers about these new features  
11 so that they will adopt it.

12 **A.** Yes, sometimes we need to do that.

13 **Q.** Right. And those are features that Apple wants developers  
14 to adopt. That's why it invests the resources and that's why  
15 ultimately it succeeds in many cases, not all, it succeeds in  
16 many cases in getting developer engagement and adoption.

17 **A.** Yes.

18 **Q.** Right. This is a program that has been the result of a  
19 court requirement and not one that Apple is investing  
20 resources and time and marketing in the same way as it does  
21 for features that it really wants people to adopt.

22 **A.** Oh, I --

23 **Q.** Correct?

24 **A.** -- disagree with you completely on this. Sorry.

25 **Q.** I thought you might. But it is, I take it, your testimony

1 then that Apple is actively encouraging developers to adopt  
2 this feature?

3 **A.** I think we need to. I don't think we've done a lot of  
4 that yet. We actively encourage on many programs, for  
5 example, we've been doing that with the DMA which has happened  
6 at the exact same time. And I think we need to put more  
7 resources into actively encouraging this one.

8 That's been one of my personal takeaways sitting here  
9 listening to the numbers. I have an action item myself to  
10 work with the team to put together more proactive programs to  
11 actively help developers understand this, give us feedback,  
12 and get this up to speed like we do with the others. It takes  
13 work. We need to do that work.

14 **Q.** All right. So if I'm understanding you, Mr. Schiller,  
15 your view sitting here now is Apple just hasn't done enough to  
16 publicize and educate and market this program that it has been  
17 required over several appeals and so forth to implement. But  
18 now having sat through the trial, these proceedings, you've  
19 had an epiphany and you want to go out and do a better job and  
20 encourage developers to embrace a program that is competition  
21 to IAP; that's where you are now, right?

22 **A.** Well, you said a lot of things I didn't say. So I'm not  
23 going to just say yes to your words.

24 As I've stated, I think that we've worked hard to create  
25 this program. I think we have a lot of work to do now to get

1 developers to understand it and support it.

2 I think it is in our interest. We have an interest with  
3 the Court to get this accepted and adopted and a desire to do  
4 that. And I think there's work in front of us to make that  
5 happen.

6 I know we've -- over the same time have to do the same  
7 work with -- for the last three or four months with the DMA  
8 and been doing that. And we have the tools, but we just need  
9 to get more work done on this as well. That's my personal  
10 feeling.

11 Q. Mr. Schiller, the DMA is a law in Europe. I think we  
12 talked about it a bit last week, right, called the Digital  
13 Markets Act?

14 A. Yes.

15 Q. All right. And it's your testimony that Apple is working  
16 and encouraging people to adopt the procedures that Apple has  
17 made available pursuant to the DMA?

18 A. Yes. Very much.

19 Q. Okay. You're aware, however, that Apple has communicated  
20 to developers on its website, just like we saw before, that it  
21 believes that the DMA and its -- and its requirements create  
22 new threats to user security and may compromise the user  
23 experience.

24 A. Yes.

25 Q. So at the same time, your testimony is that you are

1 articulating the dangers of the DMA, you're out there  
2 encouraging them, developers, to adopt the new program?

3 **A.** Absolutely. Skiing is dangerous. I still do it. You  
4 know, that we can recognize the --

5 **Q.** Marketed as dangerous, skiing?

6 **A.** Sure. That's why you have to wear helmets now. You --  
7 the --

8 **Q.** Mr. Schiller, people don't say, "Come to our ski slope,  
9 ours is more dangerous than others." Right? That's not a  
10 thing people do in marketing.

11 **A.** Well, they put up a lot of signs there and warning  
12 signs --

13 (Simultaneous colloquy.)

14 **BY MR. BORNSTEIN:**

15 **Q.** Yes, they put up warnings so that people behave  
16 appropriately. They don't actively market danger. Right?

17 **A.** We --

18 **Q.** Mr. Schiller, ski slopes, they don't actively market  
19 danger in order to encourage people to come use their  
20 products, right?

21 **A.** And we're not marketing danger --

22 **Q.** What you're -- however, what Apple is doing on its website  
23 for this program and for the DMA, is it is in fact stating its  
24 disagreement with those requirements.

25 **A.** Yes, we've been clear about our feelings on it. But we're

1 also actively encouraging developers and helping developers to  
2 support it and use it. Spending tremendous resources to do  
3 so. And I'm happy to do so because it's the law and it's what  
4 we're doing. And we're going to do everything to make it safe  
5 for our -- for our users and a good opportunity for our  
6 developers.

7 Q. And when Apple rolls out a new feature voluntarily, Apple  
8 really does do real marketing to inform developers of the  
9 option. Take "Sign in with Apple" that we talked about. You  
10 invested in informing them of that, right?

11 A. Some we do, others we don't.

12 Q. Right. And this is one -- this is one where now your  
13 testimony is we haven't done enough, but, God, I've been  
14 sitting here and I've decided we need to do more?

15 A. Well, now is the first time I've testified on this so --  
16 so now is my chance to talk to you about it.

17 I think there's more we can do. And I think there's more  
18 we can work with developers on to get them to use and -- and  
19 take advantage of this capability.

20 Q. All right. Let's talk about how attractive it is for  
21 developers. There are fees that developers have to pay  
22 associated with purchase links, right?

23 A. Yes.

24 Q. Okay. And we had some discussion last week about whether  
25 there were prior instances in which Apple had charged a fee on



1 out-of-app transactions. Remember that?

2 A. Yes.

3 Q. Yeah. And you testified that, you know, some of the other  
4 people who preceded you on the witness stand didn't go back as  
5 far as you did with the App Store and maybe they didn't  
6 remember a time before the multi-platform rule, right?

7 A. Correct.

8 Q. And let's just be clear about the multi-platform rule and  
9 what it did and what happened beforehand.

10 Prior to the multi-platform rule, a user could purchase  
11 digital content on some other platform, like on the web, but  
12 then would not be able to use that content within the iOS app  
13 unless they also purchased it again through IAP, right?

14 A. That's right.

15 Q. All right. There was no charge that Apple levied on that  
16 initial purchase on the web, right?

17 A. Correct.

18 Q. Even if I went on my iPhone and I bought something on my  
19 web browser, prior to the multi-platform rule, Apple charged  
20 zero commission on that transaction. Right?

21 A. That's right, because the content couldn't be consumed in  
22 the app on the iPhone.

23 Q. Right. So there was never a time before the  
24 multi-platform rule, after the multi-platform rule when Apple  
25 actually levied a charge on the out-of-app transaction, right?

1     **A.** Again, not if -- unless the user then wanted to use the  
2     content in the app. Then there was a charge.

3     **Q.** No, but there wasn't a charge on the out-of-app  
4     transaction. What you're saying is if the user wanted to use  
5     the content in the app but had to make an in-app transaction,  
6     right?

7     **A.** Correct.

8     **Q.** There was never a time, never, that the out-of-app  
9     transaction was subject to a commission, right?

10    **A.** Again, I think we're speaking past each other.

11    **Q.** Well --

12    **A.** If a user buys it on the web and doesn't consume it in the  
13    app, there wasn't a charge. If they went to consume it in the  
14    app, then they did pay again and there was a charge.

15    **Q.** All right. Let's -- I'm not sure why we're not  
16    communicating. This seems to me relatively straightforward,  
17    Mr. Schiller.

18           I go on my web browser prior to the multi-platform rule,  
19    after the multi-platform rule, doesn't make a difference, I  
20    buy something. Apple never took a commission for that  
21    purchase, period, full stop, correct?

22    **A.** Correct.

23    **Q.** Okay. This now, aside from this dating app thing in the  
24    Netherlands, this injunction now is the first time that Apple  
25    is charging for transactions that happen outside the app,

1 correct?

2 **A.** Correct.

3 **Q.** All right.

4 **THE COURT:** And just to be clear, having -- listening  
5 to your colloquy. In the hypothetical where someone goes out  
6 of the app to a website, makes a purchase for, let's say,  
7 clothing in a game or skins in a game, Apple takes all  
8 purchase -- their 30 or 27 percent on all purchases for the  
9 next seven days whether or not that person ever goes back to  
10 use them on the iPhone, right?

11 **THE WITNESS:** No, Your Honor. If -- if they -- I  
12 want to make sure I understand your scenario.

13 **THE COURT:** Right. Well, because you can play these  
14 games on multiple different platforms.

15 **THE WITNESS:** Correct.

16 **THE COURT:** So if you click out -- let's, you know,  
17 you're playing a game and you click out to make a purchase on  
18 the game's website. And then let's say you spend ten bucks,  
19 \$10, whatever the currency is, ten.

20 But then you decide you really like the way this looks on  
21 your computer and so you want to play the game with your skins  
22 using -- with your new \$10 worth of merchandise on the  
23 computer, but you actually linked out to make the purchase.

24 Doesn't Apple take the 27 percent off the \$10 whether or  
25 not that purchase is consumed on the iPhone?

1           **THE WITNESS:** True. If it starts with a linkout from  
2 the app and goes to the website, within that seven days, we  
3 have a 27 percent commission on that purchase regardless of  
4 what's done later.

5           **THE COURT:** Right. So for the next seven days,  
6 you're taking money for commissions for purchases. And under  
7 my hypothetical, if they never go back to the iPhone ever  
8 again, you've still taken commissions for use of off-devices  
9 purchases that were actually never used on the iPhone, right?

10          **THE WITNESS:** True. And that would be the same  
11 in-app as well. I could be in an app, make a purchase for  
12 10 dollars. Apple gets a 30 percent commission. The user  
13 decides not to consume that purchase in the app on their  
14 iPhone, instead goes to the computer, logs back in with their  
15 account and uses it. And in that scenario, the same has  
16 occurred.

17          **THE COURT:** Right, but there's no friction for those  
18 purchases. So the likelihood of that happening is pretty low.  
19 Right? There's no friction. That's the point. That's your  
20 competitive advantage, is that there's no friction.

21          **THE WITNESS:** That's true. I don't think it's our  
22 only competitive advantage, but yes.

23          **THE COURT:** Go ahead, Mr. Bornstein.

24          **MR. BORNSTEIN:** Thank you, Your Honor.

25          **Q.** Just to follow up on a question the Court posed. The

1 Court hypothesized a situation where a user was playing a  
2 game, buying content for a game, right?

3 What -- the colloquy you and the Court just had -- strike  
4 that.

5 The same thing would be true for a subscription app,  
6 correct?

7 **A.** I'm sorry. Could you --

8 (Simultaneous colloquy.)

9 **BY MR. BORNSTEIN:**

10 **Q.** That was a terrible question. I appreciate your asking me  
11 to clarify it.

12 Let's say I go on a -- the next person who will sit in  
13 that seat is a developer of a yoga app.

14 **A.** Okay.

15 **Q.** Let's say I go on this yoga app that I need to subscribe  
16 to in order to get access to the yoga classes I want to take.

17 If I go on the app and it has a link and I click on the  
18 link to the yoga app website and I subscribe there, that would  
19 be subject to a 27 percent charge, assuming it's the first  
20 year of the subscription, right?

21 **A.** Yes.

22 **Q.** Okay. And then if I decide I want to do all my yoga in a  
23 place where I've got my computer and I never go back to do  
24 yoga on the iPhone, that 27 percent stays with Apple, right?

25 **A.** Yes.

1 Q. And then in the following year, if the subscription  
2 auto-renews, there would then be, in year two, a 12 percent  
3 charge commission that Apple would collect from the developer,  
4 correct?

5 A. Yes.

6 Q. Again, even if during the course of that whole year, the  
7 user never went back to practice yoga on the iPhone?

8 A. Yes.

9 Q. And that 12 percent would continue in perpetuity unless  
10 and until the user takes some action to end or change the  
11 subscription, correct?

12 A. That is true.

13 Q. Even if, again, they never practice yoga on the iPhone  
14 again?

15 A. And the reverse is true as well, just to be clear. The  
16 reverse is true that if someone purchases a yoga subscription  
17 on their website or on their PC and then forever on uses it on  
18 their iPhone and Apple never gets a commission, both scenarios  
19 are true.

20 Q. Right, but nobody else is getting a commission either in  
21 that circumstance.

22 A. I can't speak to what happens on another platform.

23 Q. Right. And that's the result of the multi-platform rule  
24 that you've had in place for years, right?

25 A. Correct.

1 Q. Does Apple believe -- or is it your experience, I should  
2 say, as a senior executive with responsibility for the App  
3 Store, that developers can effectively use out-of-app  
4 communications to let users know about purchase options that  
5 might be available to the users on the web?

6 A. Yes.

7 Q. Okay. Now those purchases, like in an email from the  
8 developer that has a link, for example, those purchases are  
9 not subject to a commission from Apple, right?

10 A. That's right.

11 Q. And -- and never have been, right?

12 A. Correct.

13 Q. Okay. So today, as I stand and you sit here, there are  
14 developers who are making those sorts of sales to users as a  
15 result of out-of-app communications without paying any  
16 commission to Apple.

17 A. Yes.

18 Q. Okay. Now hypothesize with me for a moment that one of  
19 those developers takes advantage of this link entitlement  
20 program and includes in its app an external purchase link,  
21 okay?

22 A. Yes.

23 Q. It is the case at that point that some number of users who  
24 previously would have signed up as a result of an out-of-app  
25 communication on which there would be no commission would now

1 sign up through the purchase link and have a commission  
2 payable to Apple, correct?

3 A. It's possible.

4 Q. So on those shifted purchases, Apple would be making its  
5 27 percent commission and the developer who previously paid  
6 zero would now have to pay a new charge on those transactions,  
7 right?

8 A. If the developer chooses to implement it that way.

9 Q. Okay. So under the current program, if it survives, there  
10 are some number of purchases that would have been  
11 commission-free that now will be subject to a 27 or 12 percent  
12 charge?

13 A. It's possible, yes.

14 Q. And developers are not allowed to tell users about that,  
15 right?

16 A. Yes, they are.

17 Q. Well, your rules in the app don't allow developers to tell  
18 users that linked transactions will be subject to a  
19 commission, right?

20 A. In the app.

21 Q. In the app.

22 A. Out of the app, they can tell them.

23 Q. Yes. It requires an out-of-app communication for that  
24 information to be conveyed to users.

25 A. Right. Like on an email or a website and where the



1 purchase has occurred on a website could all say that.

2 Q. Right. But in the app where the link appears that a user  
3 might actually click in order to make the purchase, the  
4 developer is not allowed to give this information to the user.

5 A. Correct.

6 Q. All right. So a developer who is sitting there and trying  
7 to decide whether or not to take advantage of this external  
8 purchase link option that Apple is now making available,  
9 they're going to need to decide and crunch the numbers to see  
10 whether doing so would actually increase the number of  
11 transactions on which they pay commissions to Apple?

12 A. Yes. They would want to test that.

13 Q. So they will need to figure out whether adopting this  
14 purchase link program with a 27 or 12 percent commission will  
15 actually cause them to lose money?

16 A. No. It's easier than that.

17 Q. Well, they need to decide whether or not they're going to  
18 be paying commissions on more transactions --

19 A. No, they don't --

20 Q. -- correct?

21 A. -- to decide that.

22 Q. Well, they -- they are going to face some number of  
23 transactions on which they previously would have had no  
24 economics and now they have to pay, correct? We established  
25 that.

1     **A.** They can easily test that, yes.

2     **Q.** Yes. And so they will need to figure that out, correct?

3     **A.** Well, they'll optimize it. They won't just figure it out.  
4     They have the ability to selectively show or not show these  
5     links to users and test how does this perform, do I make more  
6     money with these users or less.

7             And they can selectively decide to show it or not show it.  
8     There's no rules in here at all about if they show them to  
9     users and how many users they show it to and which is  
10    optimized for their best performance. That's up to them to  
11    decide and test. And that's what they do. They do that  
12    really well.

13    **Q.** I completely agree, and they can optimize by showing the  
14    link to fewer people or showing it in a place where fewer  
15    people click it. That's --

16    **A.** Or show it where they can generate customers that would  
17    never visit their site and now will. They have opportunities  
18    here to do whatever works best for their business.

19    **Q.** Right, because communicating in the app and getting people  
20    who would never visit their site is an effective way to  
21    communicate, and there will be people who sign up if they see  
22    the link, as compared to getting an out-of-app communication.

23    **A.** Yes, there will be some.

24    **Q.** Okay. Can we agree that -- just a basic economic starting  
25    point here -- the higher the fee that Apple charges for the

1 purchase link, the less likely it is a developer will want to  
2 use it, all else equal?

3 A. All else equal, yes.

4 Q. Basic economics.

5 A. I'm not an economist, but I believe that's true.

6 Q. You're a pretty sophisticated businessman.

7 A. Again, just slightly.

8 Q. Okay. So any fee, any fee, forget 27 percent, forget 12,  
9 any fee that Apple charges on purchases made through an  
10 external purchase link will make that link less attractive to  
11 developers than if the link had no charge, right?

12 A. Again, all else being equal, which it's not, but in the  
13 abstract, sure.

14 Q. Okay. Now, the actual commission is either -- is  
15 27 percent as the -- what Apple calls the standard fee, right?

16 A. Yes.

17 Q. And so it's -- to make it clear, it's 27 percent on  
18 purchases where it would otherwise be 30 percent if it were  
19 done through IAP, right?

20 A. Yes, except for one important distinction that makes that  
21 math much more complex. The developer sets the price in the  
22 app and on the website. And that difference could be whatever  
23 they choose it to be. We have no rules about how they price.

24 And so it's not just that there's a price in the app and  
25 it's minus 30 percent and it's a price linking out and it's

1 minus 27. Because they don't have to be the same prices.

2 They can be whatever prices they want.

3 Q. Right. Developers have the ability, if it makes economic  
4 sense for them, to charge less on the web. Right?

5 A. Or more in the app or any combination thereof.

6 Q. Right. Well, less on the web is more in the app, I think,  
7 right?

8 A. No. In other words, there isn't -- these two prices are  
9 not necessarily linked together if the developer doesn't want  
10 them to be.

11 Q. Right, the prices aren't, but the commissions are, right?

12 A. The commissions are set by our terms. The prices are  
13 whatever the developer wants.

14 Q. Correct. The commission for an -- for some in-app  
15 purchases is 30 percent, and for those purchases, the  
16 commission is 27 percent if it's made through a link, right?

17 A. Correct. I'm just --

18 Q. Okay.

19 A. -- suggesting if the --

20 (Simultaneous colloquy.)

21 **BY MR. BORNSTEIN:**

22 Q. That's all I'm asking you, sir. We'll get to pricing.

23 A. Okay.

24 Q. And if the commission is 15 percent through IAP, it's  
25 12 percent through a link?

1       **A.** Yes.

2       **Q.** Okay. Three percent difference in both circumstances.

3       **A.** Correct.

4       **Q.** All right. In the price committee deck that we saw and  
5       that you saw as a member of the price committee, there's no  
6       separate buildup for the 27 percent versus the 12 percent,  
7       right? There's not two different analyses that Apple did,  
8       correct?

9       **A.** No. I believe they were combined together in that  
10      analysis.

11      **Q.** Okay. And so the -- the combination is where you get that  
12      effective rate we heard a lot of testimony about of  
13      18 percent, right?

14      **A.** We sure did, yes.

15      **Q.** And that's where the 18 percent comes from, it's a  
16      combination of the two?

17      **A.** Yes.

18      **Q.** All right.

19             So let's go back to the January 11 price committee  
20      meeting. And you should have in front of you the deck. It's  
21      CX-54, five-four.

22                             (Exhibit published.)

23             **THE COURT:** So I was going to take our first break in  
24      about seven minutes. Do you want to do it now? Would we get  
25      a good breaking point in about seven minutes?

1           **MR. BORNSTEIN:** I think now would be convenient since  
2 we're starting in on a lengthy document, Your Honor.

3           **THE COURT:** Okay. All right. Let's go ahead and  
4 take our first break.

5           Let's see. We'll go ahead and start again at ten of  
6 11:00. So 10:50.

7           **MR. BORNSTEIN:** Thank you, Your Honor.

8           (Recess taken at 10:38 A.M.; proceedings resumed at  
9 10:50 A.M.)

10          **THE COURT:** Okay. We are back on the record. The  
11 record will reflect that the parties are present.

12          Before we start with 54, I noticed that my copy has  
13 numerous redactions. Is there -- is there an agreement on the  
14 redactions? Are these attorney-client? What is the --

15          **MR. BORNSTEIN:** What Your Honor should have is a copy  
16 that is not redacted. Oh, actually, you know what, 54 does  
17 have redactions. I take that back. Those are redactions that  
18 Apple has applied, I understand, for privilege.

19          **MR. PERRY:** Yes, Your Honor. Fifty-four is a  
20 document produced during the hearing at the request of the  
21 Court during Mr. Oliver's testimony.

22          The Court has -- the Court's version has two different  
23 sets of markings. The redactions are for privilege. The  
24 highlighting in the nonpublic version reflects the redactions  
25 in the public version for confidential business information.

1           **THE COURT:**    Okay.

2           **MR. PERRY:**    So the Court should have both of those  
3 marked in its copy.

4           **THE COURT:**    Okay.    Thank you.

5           You may proceed.

6           **MR. BORNSTEIN:**   Thank you, Your Honor.

7           **Q.**   Mr. Schiller, do you have Exhibit CX-54 in front of you?

8           **A.**   Yes, I do.

9           **Q.**   Okay.

10          **MR. BORNSTEIN:**   And this is already in evidence, Your  
11 Honor.

12          **THE COURT:**    Yes.

13          **BY MR. BORNSTEIN:**

14          **Q.**   This is the deck from your January 11 price committee  
15 meeting, correct?

16          **A.**   I believe it is.

17                               (Exhibit published.)

18          **BY MR. BORNSTEIN:**

19          **Q.**   All right.   And we talked a little bit last week about  
20 Slide dot -- or page .2.   We didn't look at it, but we talked  
21 about it.

22               This states the tentative plan of record as of January 11,  
23 correct?

24          **A.**   Yes.

25          **Q.**   All right.   And this tentative plan of record as of

1 January 11 matches up completely with what Apple actually  
2 implemented five days later on January 16, correct?

3 A. Yes.

4 Q. All right.

5 So at this meeting on January 11 when this was the  
6 tentative plan of record, this was discussed by you, Mr. Cook,  
7 Mr. Maestri, as we talked about; yes?

8 A. Yes.

9 Q. And others?

10 A. Yes.

11 Q. And as you testified last week, you all anticipated  
12 that -- or had reason to believe, I think were your words,  
13 that the Supreme Court ruling might be coming down in the very  
14 near future, right?

15 A. Yes.

16 Q. And so you had reason to expect and believe that you were  
17 near the end of this process and needed to come to a final  
18 conclusion, right?

19 A. Yes.

20 Q. All right. Did you actually at the January 11 meeting  
21 here reach a consensus on what the -- on whether to stick with  
22 this tentative plan of record?

23 A. I believe I recall that the -- we had much discussion  
24 around many elements, and this was still the plan of record  
25 when we left the meeting, but it was not a final decision.



1 Q. What, if anything, was still open at that point in time to  
2 be investigated, resolved, or decided?

3 A. I don't recall specifically whether Mr. Roman had been  
4 asked to check some numbers or not or -- there was much  
5 discussions. I don't recall the specifics. I simply remember  
6 it being said that this is our plan of record, let's send it  
7 around again, and -- and I'll review it again and then make  
8 our decision.

9 It was asked should we meet together again to do that, or  
10 can we do it over email. And we all said, well, we can do  
11 that over email.

12 I think individuals may have their own reason for wanting  
13 to stare at it again and look at the numbers and make sure  
14 before we made it final. But -- but for whatever reason, what  
15 was said was let's send it around again and we'll decide  
16 over -- finally over email.

17 Q. Was Mr. Roman given instruction or direction that you  
18 recall about what it is he should go work on?

19 A. I don't recall. I -- I know there were questions. I  
20 don't remember if they were answered in the meeting.  
21 Sometimes they are. Or -- or somebody verbally gave something  
22 afterwards. I just don't recall. I know there were -- it  
23 was, you know, a fulsome meeting and there were lots of  
24 questions.

25 Q. Okay. And after the meeting before the deck came around

1 by email on January 16, there were changes that were made to  
2 the deck, correct?

3 A. I -- I'm not sure.

4 Q. Okay. Is it the practice at Apple when a pricing decision  
5 gets made to have a finalized deck of the sort that was  
6 presented here on January 16?

7 A. Usually the final deck is what's presented in the meeting.  
8 Or if it's a follow-up later, it's that -- that version.  
9 There's no rule about it. It's just typically the last one's  
10 the last one.

11 Q. Okay. Are you aware that when the deck was revised, there  
12 were some assumptions that were changed in the -- in the deck?

13 A. I don't recall.

14 Q. Okay. Do you remember whether there were any slides that  
15 were taken out or slides that were added?

16 A. I don't recall.

17 Q. Okay. The deck came around to you by email on January 16,  
18 right?

19 A. Yes.

20 Q. And you approved it at some point that day?

21 A. That morning, yes.

22 Q. Okay. That morning. How much time did you spend after  
23 getting it before approving it?

24 A. I do not recall.

25 Q. Okay. Why, if you and Mr. Cook and Mr. Maestri were all

1 there and you walked out of the meeting with this still being  
2 the tentative plan of record, why is it that there was a  
3 process that Mr. Roman and others went through to make  
4 revisions to the deck? What was the purpose?

5 **A.** I don't recall those revisions. So I can't say.

6 **Q.** Okay. Who -- who was this deck for? Was it for you and  
7 Mr. Cook and Mr. Maestri? Like what's the audience for this  
8 deck?

9 **A.** It's the price committee. This is a process I created at  
10 Apple 27 years ago. We use it for all of our products when we  
11 price them, the price committee. We've got a template we use.  
12 It varies from kind of product to product.

13 But this is our process. And the audience is the price  
14 committee itself. And the deck is created to present the  
15 assumptions of the plan of record, the number of the elements  
16 of the analysis.

17 **Q.** All right. And you understood that this particular price  
18 committee exercise, however, was being done in connection with  
19 or as the result of a legal proceeding, right?

20 **A.** Yes.

21 **Q.** And you understood at the time that you and your  
22 colleagues were working on this issue that the output of your  
23 work could wind up being scrutinized in court, right? You  
24 knew that?

25 **A.** I don't recall whether I thought about that or not. I'm

1       sorry, I -- no. It may -- of course it could, but I don't  
2       recall --

3       Q. Right.

4       A. -- whether I thought about that.

5       Q. Well, you had, as you've testified, your general counsel,  
6       your head of litigation, and other members of your legal  
7       department participating in these meetings, right?

8       A. Yes, we did.

9       Q. All right. And you understood that this whole thing was  
10      part of a legal process, right?

11      A. No. This was our price committee process. That was the  
12      main purpose.

13      Q. The price committee process was in service of Apple  
14      complying with a legal order, correct?

15      A. Well, absolutely it's a legal order driving our need to  
16      make these changes. But the price committee process is the  
17      price committee process. We do it for all of our products.

18      Q. Sure. And in this case, you were going through that, I  
19      think we've established, as a result of an injunction, right?

20      A. Yes.

21      Q. All right. And you going through that process, you,  
22      Mr. Schiller, and your colleagues were careful about what it  
23      is you put in these documents. You were careful about what  
24      you put in writing, correct?

25      A. Again, I hope we're always careful about what we put in a

1 price committee deck to make it appropriate.

2 Q. All right.

3 THE COURT: Do you always put "Attorney-client  
4 privileged, prepared at the direction of counsel" on all of  
5 your price committee decks?

6 THE WITNESS: I believe they always are privileged  
7 and confidential. I'm not sure whether they are --

8 THE COURT: Do you recall seeing in most of your  
9 decks "Prepared at the direction of counsel"?

10 THE WITNESS: No, I don't recall that.

11 THE COURT: So this is different.

12 THE WITNESS: That statement would be, I think, more  
13 unique, yes.

14 THE COURT: Proceed.

15 MR. BORNSTEIN: Thank you, Your Honor.

16 Q. This deck, you heard Mr. Oliver testify, was part of the  
17 process that Apple was going through to try to justify the fee  
18 that it was charging. Do you agree with that testimony?

19 A. Yes. Whatever fee we decided on, we wanted to make sure  
20 we did analysis to support whatever that would be.

21 Q. Right, but -- there's no analysis in this deck of  
22 competitive reaction to the fee that you select, right?

23 A. That's true.

24 Q. There's nothing that says if we charge more, then  
25 developers might react this way, and this might happen if we

1 charge less, then some other things might happen. There's not  
2 a competitive inquiry here, right?

3 A. Correct.

4 Q. Instead, when you're making the revisions that happened in  
5 those five days, there were assumptions being refined, and as  
6 you say, there were maybe Mr. -- well, you don't remember?

7 A. I don't know what revisions --

8 Q. Yeah.

9 A. -- were made in those five days, sir.

10 Q. Fair. Let me not attribute to you things that you don't  
11 recall.

12 A. Thank you.

13 Q. The analysis that was done, though, was an analysis to try  
14 to document and record your basis for coming up with the fees  
15 that ultimately got charged for the price committee?

16 A. It was to support those decisions.

17 Q. Now, this was not, as we've already talked about, the  
18 first time that Apple had imposed a 27 percent charge on  
19 out-of-app commissions. And I'm thinking of the Netherlands.  
20 Out-of-app transactions, excuse me. And I'm thinking of the  
21 Netherlands, right?

22 A. That's right.

23 Q. All right. So since we had some discussion about what it  
24 was that happened in the Netherlands before, just to have it  
25 clear, the order from the regulators in the Netherlands

1 required Apple both to allow alternative payment systems and  
2 to allow linkouts like the ones we've been talking about in  
3 the United States, correct?

4 **A.** Yes.

5 **Q.** All right. And you were one of the people who was  
6 responsible for selecting the 27 percent charge in the  
7 Netherlands, right?

8 **A.** Yes.

9 **Q.** And that was selected in 2021, 2022?

10 **A.** I don't recall the exact date but in that range, yes.

11 **Q.** All right. And is it just a coincidence that the numbers  
12 are the same, the 27 percent?

13 **A.** Partly yes and partly no.

14 **Q.** Okay. Why don't you explain the "partly no" part of that.

15 **A.** Of course sitting in this room seeing the options and the  
16 analysis, we're also aware of our other pricing in the  
17 Netherlands and Korea and understand the context that  
18 developers see this in and that they are aware of those. Of  
19 course we know that.

20 And so that's where it's not a surprise that that was at  
21 least -- certainly in the back of my mind, but that's not  
22 entirely what this was based on either. No one said, hey,  
23 let's do that to match those prices. The analysis was  
24 different. And you've seen the slides. But -- but certainly  
25 there was awareness.

1 Q. So Mr. Roman's testimony that the Netherlands 27 percent  
2 charge had, quote, nothing to do with the 27 percent charge  
3 here, you disagree with that?

4 A. No. From his work, his responsibility was not to come up  
5 with options and --

6 Q. I didn't ask about his work.

7 A. We're different people with different thoughts.

8 Q. Again, I didn't ask about his work. He testified that the  
9 27 percent in the Netherlands had nothing to do with the  
10 27 percent charged in the United States. From your  
11 perspective, Mr. Schiller --

12 (Simultaneous colloquy.)

13 **BY MR. BORNSTEIN:**

14 Q. From your perspective, Mr. Schiller, is his testimony  
15 about how the 27 percent got arrived at here incorrect? Did  
16 it have nothing to do with it?

17 A. It's not incorrect. That's his testimony from his  
18 understanding and what he did.

19 I'm saying I was aware that there was another commission  
20 in another country that looked similar. I was aware of that.

21 Q. All right. So, and in fact, that information, the  
22 Netherlands 27 percent and the Korea 26 percent that you  
23 mentioned, that information is actually in earlier versions of  
24 the price committee deck. So if you look, for example, in  
25 case you don't recall, at CX-54, that same document we were



1 looking at.

2 (Exhibit published.)

3 **BY MR. BORNSTEIN:**

4 **Q.** This is the January 11 deck; yes?

5 **A.** Yes.

6 **Q.** Okay. Look at page .9, please.

7 **A.** I see that.

8 **Q.** All right. So on January 11, when you and Mr. Cook and  
9 Mr. Maestri and Ms. Adams and others were talking, this  
10 27 percent and 26 percent information was part of the  
11 materials under review, correct?

12 **A.** It was included in the slides, yes.

13 **Q.** Right.

14 **THE COURT:** And it wasn't -- I don't recall seeing  
15 this before. Was it not included in the final?

16 **MR. BORNSTEIN:** That -- that was my next question.

17 **THE COURT:** -- in the final?

18 **THE WITNESS:** It was not.

19 **BY MR. BORNSTEIN:**

20 **Q.** Now, Mr. Schiller, I thought you testified a moment ago  
21 you didn't know what changes were made and what got removed.

22 **A.** I'm saying that because we looked at the deck in last  
23 week's court case and I didn't see it in there. So I think it  
24 was pretty clear that it wasn't in there.

25 **Q.** All right. And you don't know, you're testifying, why

1 this slide about the Netherlands got removed from the final  
2 deck shared with the Court?

3 **A.** No, I don't recall any discussion about it.

4 **Q.** Okay. And we would not have seen this slide had the Court  
5 not ordered the production of the January 11 deck, right?

6 **A.** Correct.

7 **Q.** All right.

8 Now, for the Netherlands --

9 **THE COURT:** Hold on. Before you leave this slide.

10 It says rates have no time duration limit. What does that  
11 mean?

12 **THE WITNESS:** That means the idea of the seven-day  
13 window does not apply in these regions.

14 **THE COURT:** Okay.

15 **BY MR. BORNSTEIN:**

16 **Q.** The process for setting these rates for the Netherlands  
17 and Korea, was it essentially the same process for the two?

18 **A.** Similar, not the same. But they were similar.

19 **Q.** The difference was just that the cost of processing in  
20 Korea was a little more expensive and so the price is a little  
21 bit lower; is that right?

22 **A.** No. There was one other really big difference.

23 **Q.** What was that, sir?

24 **A.** With Korea, Google had announced their -- their process  
25 first and had done something similar to this. And that

1 informed us competitively to, wow, that's what Google thinks  
2 is a solution to this problem and if creating linked out and  
3 how do you deduct for payment processing, and that -- that was  
4 a new piece of information we just hadn't heard of.

5 And that was certainly consideration, as well as them  
6 looking at the market rates and deciding for ourselves what  
7 that should be.

8 So there was some things like Netherlands, but that was a  
9 pretty big difference.

10 Q. Okay. So for the common pieces of the Netherlands and  
11 Korea, you started with your IAP rate, as we see at the top of  
12 the screen, and then you took some deductions to try to figure  
13 out what would be a sensible price for developers; is that  
14 right?

15 A. That's right.

16 Q. So from the top, you went down?

17 A. Absolutely. It was a deduction.

18 Q. Right. And so one of the things that to come up with this  
19 new charge you took out was your -- Apple's -- assessment of  
20 the cost of getting payment processing by developers, right?

21 A. In -- in those markets, correct.

22 Q. In those markets. Thank you.

23 And another thing that Apple took into account in  
24 determining this new fee was Apple's estimate of developers'  
25 support costs for things like refunds and so forth in those

1 markets as well, correct?

2 A. Exactly, yes.

3 Q. Now, you heard Mr. Oliver last week testify that Apple  
4 also took into account a reasonable margin for developers.

5 Do you recall that?

6 A. I heard he said that, yes.

7 Q. Yeah.

8 Is that true that Apple took into account in setting the  
9 Korea and the Netherlands rate a reasonable margin or rate of  
10 return for developers?

11 A. I believe there was a -- a process for that, yes.

12 Q. Okay. Let's talk about your Australia testimony again,  
13 sir.

14 Can we go to -- it's tab D in your transcript binder.  
15 You've got two binders up there.

16 A. Three binders, but I'll find it. Hold on one second.

17 Q. Two big ones.

18 (Pause in the proceedings.)

19 BY MR. BORNSTEIN:

20 Q. Let me know when you have tab D.

21 A. I have tab D.

22 Q. Okay. And tab D is a transcript of the testimony in  
23 Australia. You can see at the bottom it's actually  
24 copyrighted by the Commonwealth of Australia. I hope we're  
25 not violating any copyright rules by using this here.

1 Have you reviewed your Australia testimony since you gave  
2 it?

3 A. No, I have not.

4 Q. All right. Can I direct you to page 1541, 1-5-4-1,  
5 please.

6 A. (Reviewing document.)

7 Q. Are you there?

8 A. I see that.

9 Q. Okay. And I can give you the context and show you that  
10 you're talking about Korea here. But you're asked at line 23  
11 or 24:

12 "Did you add a component for the -- to allow a rate of  
13 return for the developer over and above the costs of acquiring  
14 and operating a third-party payment system?

15 And your answer is, "No, we did not."

16 Correct?

17 A. That's right.

18 Q. All right. And was that testimony accurate?

19 A. Yes.

20 Q. Okay. And you did the same thing in Korea as you did in  
21 the Netherlands in not accounting for a rate of return for the  
22 developer over and above costs, correct?

23 A. Well, what I recall the team doing was actually rounding  
24 it up to add additional. So I wouldn't call it a component  
25 for the rate of return. The team rounded up to make sure

1 there was additional to it other than what the base  
2 calculation provided.

3 Q. Mr. Schiller, is that what you testified in Australia?

4 A. I answered a specific question about a component for the  
5 rate of return.

6 Q. All right. Should we look at the bottom of that page,  
7 then, Mr. Schiller. At line 42, you were asked directly:

8 "Did you proceed on the basis that you would take into  
9 account what a developer thinking about using an alternative  
10 payment system would be taking into account by way of its own  
11 operational and overhead costs of using that alternative  
12 system?"

13 And you answered, "No." Correct?

14 A. That's right because it's about operational costs which I  
15 don't recall us ever thinking about.

16 Q. All right.

17 And your testimony to reconcile the idea of taking into a  
18 reasonable rate of return, as you said here versus what you  
19 said in Australia, is you just rounded up and so you didn't  
20 consider that a component?

21 A. Well, not me. That -- I remember the team talking about  
22 doing that when they presented the numbers to us. I wasn't  
23 part of the working group that did it, so I can't speak to  
24 everything they thought of. But I remember them telling me  
25 how they rounded up the number.

1 Q. Right. And so when you testified in Australia that you  
2 did not add a component to allow for a rate of return over and  
3 above the cost of acquiring and operating the third-party  
4 payment system, what you're saying now is that meant, no, we  
5 didn't add a component, we just rounded up?

6 A. Correct.

7 Q. And you don't view that as taking that into account as a  
8 component for developers.

9 A. I think calling it a component gives it more intention  
10 than I am willing to say since I wasn't part of the working  
11 group and did not hear about any such thing.

12 Q. You mentioned earlier, Mr. Schiller, that some developers  
13 have the ability to charge less on the web for the same item  
14 that they sell in an iOS app at a different price, right?

15 A. Well, all developers have the ability. It's up to them on  
16 what they feel is appropriate for their business.

17 Q. Right. Some developers actually do it. They charge less  
18 on the web and they charge more in iOS?

19 A. That's right.

20 Q. Okay. And now you realize, at least currently, for  
21 developers who do that, a key reason they are able to charge  
22 less on the web is they don't pay a commission to Apple,  
23 right?

24 A. I haven't spoken to developers to ask about the financials  
25 of what goes into all their thinking on that and whether it's

1 customer acquisition and they want to get people to their  
2 website, or whatever the reason they have for charging less.  
3 I try not to pry into their individual economic models because  
4 I think that's not good for me and Apple to actually get  
5 confidential informations on their financials.

6 **Q.** Mr. Schiller, I'm not asking about confidential  
7 information on specific developers' financials, respectfully.

8 I'm asking you understand, as the guy who runs the  
9 App Store, the financial and economic incentives that  
10 developers have as a general matter, correct?

11 **A.** Yes.

12 **Q.** And you understand that developers can charge less on the  
13 web if they're not paying 30 percent to Apple as a general  
14 matter, correct?

15 **A.** Again as you stated earlier, all else being equal, which  
16 it may not be, but all else being equal, sure.

17 **Q.** Okay. Under the new entitlement program, as we talked  
18 about, at least some of those web purchases, the ones that are  
19 made through the clicking of a link, they will now bear a  
20 commission, correct?

21 **A.** Yes.

22 **Q.** All right. And it doesn't matter what the commission is.  
23 That commission is a commission that developers who would have  
24 sold out of the app will now have to pay that is new.  
25 Correct?



1     **A.** That is one way of looking at it.

2     **Q.** All right.

3     **A.** And it's true it's also the way to look at it that it's  
4     now paying a less commission than had that transacted in the  
5     app. Both sides are true at the same time.

6     **Q.** I couldn't agree with that more.

7             All else equal, if developers costs go up, they are more  
8     likely to raise their prices, fair?

9     **A.** All else being equal, yes.

10    **Q.** All else equal. All else equal, if developers have to pay  
11    a 27 percent commission, they are less likely to be able to  
12    offer the same discount on the web as if they were paying a  
13    commission of zero, correct?

14    **A.** Yes.

15    **Q.** And although the magnitude of that effect may vary  
16    depending on how big or small Apple's commission is, that's  
17    true for any commission that Apple would charge, correct? It  
18    would make discounts on the web less likely than if there were  
19    no charge at all?

20    **A.** In an absolute, without considering any other factors, of  
21    which they are many, in the abstract it -- sure.

22    **Q.** Okay. And so compared to Apple's longstanding practice of  
23    not charging on out-of-app transactions, the commission on  
24    linked purchases, all else equal, is going to limit the price  
25    competition that this injunction was intended to foster.

1     **A.** I don't think that's necessarily true, no.

2     **Q.** Well, if the price on the website is higher because people  
3     are bearing a commission, there will be less reason for users  
4     to link out in the first place rather than buy in the app.

5     **A.** Oh, I think that assumes a lot of things that are not true  
6     and not necessarily the way developers would do this. So I  
7     can't -- I can't accept that statement.

8     **Q.** All right. But you just said, Mr. Schiller, you don't pry  
9     into their developer's financials. How do you know that?  
10    Because you understand their economic incentives, right?

11   **A.** Because as we've been carefully saying, all else being  
12   equal, but it is not all else equal. There is much more that  
13   can go on here that determine whether a developer creates a  
14   model where they drive more users to the website, where they  
15   bring more value, and they have a -- can offer things at the  
16   same or lower prices over their long term to users. There is  
17   a lot more they can do that is not being considered in any of  
18   these simplistic discussions.

19   **Q.** Right. Because -- well, we'll make it relatively  
20   straightforward. A developer in the world as it existed  
21   before the injunction. We talked about this the other day.

22   **A.** Yes.

23   **Q.** They had two choices. There were sales made through IAP,  
24   there were sales made on the web which would not bear a  
25   commission, right?

1       **A.** That's right.

2       **Q.** And we've now created through this injunction a new option  
3       which is the linked purchase, correct?

4       **A.** Yes.

5       **Q.** If the linked purchase carries no commission, it's more  
6       likely to be used by developers and developers are more likely  
7       to be able to charge lower prices than if that linked purchase  
8       carries a commission payable to Apple. Correct?

9       **A.** Yes.

10      **Q.** Okay. Thank you.

11               **MR. BORNSTEIN:** I have no more questions, Your Honor.  
12      Pass the witness for now.

13               **THE COURT:** Mr. Doren.

14               **MR. DOREN:** Thank you, Your Honor.

15      We have a binder of our own that we're distributing.

16               **THE COURT:** Thank you.

17               **MR. DOREN:** May I proceed, Your Honor?

18               **THE COURT:** You may.

19                               **CROSS-EXAMINATION**

20      **BY MR. DOREN:**

21      **Q.** Good morning, Mr. Schiller.

22      **A.** Good morning.

23      **Q.** Last week you testified that since 2021, you have been  
24      leading a cross-functional team to perform the work necessary  
25      to comply with the injunction. Do you recall that?

1 A. Yes, I do.

2 Q. What areas of the company have been involved in that  
3 cross-functional team?

4 A. The App Store business team, the App Store engineering  
5 team, the software engineering team, two different human  
6 interface teams, the finance team, the App Store commerce  
7 team, the legal team. I -- those are all I can think of right  
8 now.

9 Q. And back in September 2021, you testified again last week  
10 that you gave the team instructions when it began its work.  
11 Do you recall that?

12 A. Yes, I do.

13 Q. What instructions did you give the team?

14 A. I recall telling them that this injunction is the -- now  
15 the law. This is what we're going to do. And our job now is  
16 not to question why we're doing it or whether you like it,  
17 we're doing it, and it's going -- we have to consider how to  
18 best do it. And there were four constituencies to keep in  
19 mind as we do this, the Court, users, our developers, and of  
20 course Apple and our shareholders.

21 Q. And who came first in that list?

22 A. The Court.

23 Q. Let's pull up, please, if we can docket -- document Docket  
24 number 813. This is the injunction. And it's also behind  
25 tab 1 in your binder.

(Exhibit published.)

**BY MR. DOREN:**

**Q.** And specifically let's look at paragraph 1 in which the Court states that Apple is permanently restrained and enjoined from prohibiting developers from, romanette one, including in their apps and their metadata button -- and their metadata, buttons, external links, or other calls to action that direct customers to purchasing mechanisms in addition to in-app purchasing.

Now do you see that language, sir?

**A.** Yes, I do.

**Q.** Do you recognize that language?

**A.** I do.

**Q.** What is it from?

**A.** It was in our guidelines in section 3.1.1.

**Q.** Prior to the trial?

**A.** Prior, yes.

**Q.** And did Apple take any action specific to this language after the issuance of this injunction?

**A.** We did.

**Q.** And what is that?

**A.** We removed that for developers in the U.S.

**Q.** Now, we've heard testimony and we'll discuss some of the other steps that Apple took. But why didn't Apple simply leave it at that, eliminate the language and see how things

1 worked out?

2 **A.** Because we had concerns that without appropriate  
3 guidelines and terms, the risk to our users would be severe,  
4 that the opportunity for frauds and scams would be significant  
5 and that the ability to maintain the ecosystem of IAP would  
6 really go away.

7 **Q.** Now, you talked about fraud and scams and these risks at a  
8 very high level, and we'll talk about some line items, but can  
9 you give the Court a little bit more about --

10 **THE COURT:** Hold on. Hold on.

11 **MR. DOREN:** I apologize.

12 **THE COURT:** You said the ecosystem of IAP would  
13 really go away. You mean that you're concerned that no one  
14 would use IAP?

15 **THE WITNESS:** No. I think --

16 **THE COURT:** Is that what you meant?

17 **THE WITNESS:** No, Your Honor. Well, yes, I'm  
18 concerned that users might be tricked into thinking that they  
19 were making in-app purchases if it wasn't clear the difference  
20 between going out to the web to get a great deal versus paying  
21 for it in the app, and that if that distinction wasn't clear  
22 and obvious to users, they would be tricked.

23 **THE COURT:** You said it would go away.

24 **THE WITNESS:** Yes, I think if developers could have  
25 no guidelines around how they could create their own links and

1 methods of payment in the app, that it would make in-app --  
2 the ecosystem fundamentally useless.

3 **THE COURT:** That is, that people would choose not to  
4 use IAP?

5 **THE WITNESS:** Or be duped into using something that  
6 they thought they were doing an in-app purchase and they're  
7 not.

8 **BY MR. DOREN:**

9 **Q.** And Mr. Schiller, when you speak of users being duped and  
10 you speak of fraud concerns, can you expand on that a bit?

11 **A.** Yes. That without guidelines to make it obvious to users  
12 what's a linkout, without guidelines to keep developers from  
13 using web views that look like native applications within the  
14 app, it would be trivial to recreate the equivalent of an  
15 in-app purchase without knowing that you're not actually  
16 making an in-app purchase.

17 **Q.** And did you take steps to address those concerns?

18 **A.** We did.

19 **Q.** And is the purchase link entitlement one of those steps?

20 **A.** It is.

21 **Q.** Is the purchase link entitlement intended to stifle  
22 competition?

23 **A.** It is not.

24 **Q.** What's the purpose of the purchase link entitlement?

25 **A.** To create a way for developers to communicate their offers

1 to users, offers that are on the web, from within the app.

2 Q. And if you could take a look, please -- and if we could  
3 please turn to document number 830 in the court docket, which  
4 is the order denying Apple's motion to stay injunction pending  
5 appeal. And this is tab 2 in your binder. And specifically  
6 if we could look at page 3, line 22.

7 (Exhibit published.)

8 **BY MR. DOREN:**

9 Q. And the Court states here that links can be tested by app  
10 review. Do you see that?

11 A. Yes, I do.

12 Q. Did Apple intend to test links, external links, under  
13 these entitlements through app review?

14 A. We do.

15 Q. For what purpose, to what end?

16 A. We simply want to make sure as best we can that the site  
17 the user is going to isn't fraudulent and that the offers that  
18 the user sees in the app are reflected by what's available in  
19 that link.

20 Q. Will entitlements facilitate that app review?

21 A. It does.

22 Q. How?

23 A. It enables a method for the app review team to know where  
24 the website is that the user is being sent so they can go and  
25 verify that it is the website that the user is expecting to



1 be.

2 Q. In other words, are you telling us that they know to look  
3 at web -- at apps for developers that have these entitlements?

4 A. Well, the entitlement is two things. It's technology and  
5 it's also a process. And so through this technology, we can  
6 be sure that when the developer tells us here's the website  
7 the user is going to be sent to, it's actually where they're  
8 being sent to.

9 It also becomes a method for the app review team to know,  
10 when they are reviewing an app, oh, this is an app that has  
11 this entitlement which means it has the link. We should go  
12 look for that link, and the developer has told us where to  
13 find it.

14 So all of those things come through this process.

15 THE COURT: Have you ever had any fraud issues with  
16 your 200 biggest developers?

17 THE WITNESS: I believe so, but -- but sitting here,  
18 I'm not going to come up with an example off the top of my  
19 head. I'd have to think for a few minutes about it, Your  
20 Honor.

21 BY MR. DOREN:

22 Q. Will Apple app review eliminate all risks related to those  
23 external links?

24 A. No. We -- we cannot.

25 Q. Why not?

1     **A.** Because it's the web. Things will dynamically change  
2     after we review it. And we'll go back and do spot checks when  
3     we can. And when users raise issues to us, we do this all the  
4     time. Every week we get users complaining about things, and  
5     we go and look and investigate them.

6             So we can go back and look, but in the interim, in real  
7     time, we don't know what's happening on those websites.

8     **Q.** Is it difficult to apply for an entitlement?

9     **A.** It is not.

10    **Q.** Can you please turn the Exhibit CX-0004 in your binder?

11    **A.** All right.

12    **Q.** Do you have that in front of you?

13    **A.** Yes, I do.

14    **Q.** What is this document?

15    **A.** This is the site on the developer website for them to  
16    apply for a link entitlement.

17             **MR. DOREN:** And, Your Honor, I would move this  
18    document into evidence.

19             **THE COURT:** It's admitted.

20             (Plaintiff's Exhibit CX-0004 received in evidence.)

21    **BY MR. DOREN:**

22    **Q.** And is this document, Exhibit 4, the entire application?

23    **A.** It looks to be, yes.

24    **Q.** Let's look then at the fields. And first of all, on  
25    page 4.2, can you tell us what information is required here?

1     **A.** We ask the developer to fill in the name of their team.  
2     They have departments or teams. The I.D. that's used on the  
3     App Store for this developer. And then the contact of the  
4     person responsible for that developer account.

5     **Q.** And then on page 4.3, what information is requested?

6     **A.** We ask them for the name of the app that they want to  
7     create the link in. And the app has an I.D. It's called a  
8     bundle I.D. That's how we identify and verify the app. And  
9     then a brief description of what that app is.

10    **Q.** And if you could turn, please, to page 4.4, what  
11    information is sought on this page?

12    **A.** We ask them for a finance contact, the name and phone  
13    number and email of that person since it is a transactional  
14    item and there is a commission. So we have the finance  
15    contact.

16    **Q.** Are the fields that we just reviewed all of the  
17    information that's requested from a developer in applying for  
18    this entitlement?

19    **A.** Yes.

20    **Q.** What's the approval process for an external purchase link  
21    entitlement?

22    **A.** It's automatic.

23    **Q.** All they need to do is submit a completed and accurate  
24    application, that's it?

25           **THE COURT:** Where does it say that?

1           **THE WITNESS:** It doesn't say it, Your Honor. It just  
2 happens once you hit "Send." It just generates the  
3 entitlement.

4           **THE COURT:** And how have you communicated that?

5           **THE WITNESS:** On the -- on developer's site that  
6 lists all the entitlements, I believe it notices whether ones  
7 are automatic or manual. But --

8           **THE COURT:** I'm sorry. Where do you say it's  
9 automatic?

10          **THE WITNESS:** We have a developer site that lists all  
11 of the entitlements they can apply for, and I believe there's  
12 information there about it.

13          **THE COURT:** And does it say "automatic" is my  
14 question?

15          **THE WITNESS:** I don't recall, Your Honor.

16          **THE COURT:** Proceed.

17          **MR. DOREN:** Thank you, Your Honor.

18          **Q.** And, Mr. Schiller, if you could please turn to Exhibit 2  
19 in your binder, CX-2 which is already in evidence, and  
20 specifically to paragraph 2.3.

21               And in the middle of that, Mr. Fischer was shown the  
22 statement that Apple will review your request and reserves the  
23 right to not provide you with the entitlement profile in its  
24 solely discretion.

25               Now I believe there was a suggestion that that language

1 over there is a trap for Apple to use with developers. Do you  
2 agree with that?

3 A. No, I don't.

4 Q. What is this language for?

5 A. This is boilerplate language we have in our agreements.  
6 Sometimes conditions arise that were never thought of that are  
7 concerning and serious, and we need some way to say this is  
8 something really bad, we can't approve it. And so there's  
9 usually some term like this that gives us the right to deny  
10 something if there's a serious issue.

11 Q. Thank you, sir.

12 Let's -- let's turn to URLs. We've heard a lot about URLs  
13 and static URLs in particular. And can we start, please, with  
14 just defining what a static URL is?

15 A. Yeah. It's simply something that I think we're all  
16 familiar with whenever you type in the name in your browser to  
17 go somewhere. That's a static URL. It simply is a specific  
18 place that the user is going to be sent to.

19 Q. And is the alternative called a dynamic URL?

20 A. Yes, it is.

21 Q. And what's the difference between the two?

22 A. A couple things. First a dynamic URL, as the name  
23 implies, can change. So you can send a user to different  
24 places. But even if it doesn't, I think more of interest to  
25 us is that a dynamic URL can attach parameters, data, to the

1 URL.

2 I think most users aren't aware of this. A URL can  
3 actually be extremely long. There's no limit to a URL.  
4 Typically most systems recommend between 2,000 and 8,000  
5 characters. So I think that would be surprising to most  
6 people. A URL can have up to 8,000 characters in it.

7 And the parameters are actually data that can be stuck and  
8 appended to a URL to be passed along. So that's of great  
9 concern to us.

10 **Q.** And what do you mean by parameters? What sort of data?

11 **A.** The types of parameters vary greatly, but the -- the type  
12 that concern us most are parameters that are used for user  
13 tracking and profiling. So a -- a frequent use on the  
14 internet of -- of -- of parameters in URLs are things like  
15 user identity, geolocation can be appended to a -- a  
16 parameter. Session information about what the user's been  
17 doing, to pass that along to a website.

18 **THE COURT:** So you would disagree with Google, then,  
19 that URLs have personally identifying data?

20 **THE WITNESS:** Oh, they certainly do. This isn't an  
21 Apple idea. If anyone searches on the web "URL parameters for  
22 tracking users," you'll see a tremendous resource of  
23 information about how that's being done.

24 **THE COURT:** Glad to know you think I was right in  
25 that case.

1 Go ahead.

2 **MR. DOREN:** Thank you, Your Honor.

3 **Q.** And does Apple require static URLs to be used for  
4 linkouts?

5 **A.** We do.

6 **Q.** Does the use of static URLs help to protect the privacy of  
7 consumers?

8 **A.** Yes, it does.

9 **Q.** How does it do that?

10 **A.** It keeps the URL from being used to pass along information  
11 about the user without their knowledge from the app out to the  
12 website. It has nothing to do with sending them to a page to  
13 find pricing. It's about passing along parameters like their  
14 demographics.

15 **Q.** And that information is not included in the static URL?

16 **A.** It is not.

17 **Q.** It's been suggested that when a person or a user taps a  
18 static URL to reach a website, once they get to the website  
19 they have to then manually type in their user I.D. and their  
20 password speech every time they go there. Is that true?

21 **A.** No, that's not true.

22 **Q.** How does it actually work?

23 **A.** Well, when you click a link, any link from an app to a  
24 website, the first time you go to that website, if you've  
25 never been it to before, the website, if it has a user

1 identity log-on, it will ask you and the browser, whether it's  
2 our Safari or Chrome or something else, will use the key chain  
3 or password management tool so that the user automatically  
4 filled that in once, click enter, and now you're logged in.  
5 Every subsequent visit, it will remember that and you will be  
6 logged in.

7 **THE COURT:** Well, don't you have to authorize it to  
8 remember it?

9 **THE WITNESS:** Yes. As long as you use those tools.

10 **BY MR. DOREN:**

11 **Q.** It's also been suggested that when a user taps on a static  
12 URL or types a static URL into a browser, that on a return  
13 visit, they can only be directed to the website's generic home  
14 page, they can't be sent to a page specific to them. Is that  
15 accurate?

16 **A.** No, that's not true.

17 **Q.** How does it actually work?

18 **A.** Well, when you visit a website -- and I think we've all  
19 experienced this, and Your Honor used the Amazon example, I  
20 think was very appropriate to this idea -- when a user goes to  
21 a site from a link without logging in or an identity, it can  
22 be still a dynamic site that's showing the offer of the day or  
23 whatever. But if the user's identity was remembered, it can  
24 customize that site for whatever the developer wants to  
25 present the user with.



1 Q. And if we can, I'd like to show you a series of  
2 demonstratives that -- that focus on the Court's example of  
3 Amazon.com.

4 (Demonstrative published.)

5 MR. DOREN: If we could please to CDX-1003.

6 Q. And you just tell us what we're looking at here.

7 A. We're looking at the home screen of an iPhone.

8 Q. And by the way, if we were to look for Amazon.com, is that  
9 a static URL?

10 A. Yes. If the user went to www.amazon.com, that's certainly  
11 a static URL.

12 Q. Let's start first, if we can, by simply getting there  
13 through the browser, through Safari. We see that on the  
14 bottom row, if you will, second from the left. Do you see  
15 that?

16 A. That's right. The compass icon is the Safari button.

17 Q. All right. And what's the first thing that the user does?

18 A. Well, you would tap on that on your phone to launch  
19 Safari.

20 Q. Okay. Let's go to Slide 2.

21 (Demonstrative published.)

22 THE WITNESS: And then you would start to type in  
23 Amazon, and you can see here it does auto-completion. That's  
24 a feature of most browsers so you don't even have to type the  
25 full name to go there.

1 **BY MR. DOREN:**

2 **Q.** And next?

3 **A.** And now you're on Amazon.com. You're anonymous at this  
4 point, but it still can be dynamic.

5 **Q.** And so what do you here if you're going in for the first  
6 time?

7 **A.** Well, I know this only too well as somebody who visits and  
8 shops on Amazon. You click that sign-in button in the top  
9 right where there's a small person icon.

10 **Q.** And let's go to the next slide.

11 (Demonstrative published.)

12 **BY MR. DOREN:**

13 **Q.** What's going on here?

14 **A.** Amazon is asking for the user's email. And on the bottom  
15 you see the Keychain feature that I spoke about earlier.  
16 We've blurred out the user identity, but the user identity is  
17 right there for you to tap on to enter it automatically.

18 **Q.** All right. And so does the user, in fact, have to enter  
19 in any information on the top half of the screen?

20 **A.** No. Only just to tap that blue box with their identity.

21 **Q.** All right. And then where does this take us?

22 **A.** Well, that should log you in. But before we'll use our  
23 face ID to authenticate access to your Keychain. So it's a  
24 biometric protection that we provide before you are logged in.

25 **Q.** Okay. And then finally?

(Demonstrative published.)

**THE WITNESS:** Now you're back again on the Amazon page. Now this user, I guess, likes cats because they have a Tidy Cats on the bottom left. But it's customized to them.

**BY MR. DOREN:**

**Q.** And you can see, in fact, their search history and items they've reviewed, that sort of thing, correct?

**A.** Right.

**Q.** So I appreciate you walking us through the static images, but now let's take a look, if we can, sir, at how it works in real time.

**MR. DOREN:** And if we can play that animation, please.

(Video playing.)

**THE WITNESS:** So same thing is going to occur. We tap on Safari, start to type in Amazon, it auto completes and you hit go and you're there.

Now you tap on "sign in." You see it appear with Keychain. You tap, do face ID and you're logged in.

**BY MR. DOREN:**

**Q.** Okay. On your personal page on Amazon?

**A.** Correct.

**Q.** And this is an example of where Keychain is used; is that correct?

**A.** Yes, it is.

1 Q. Can a user choose, instead of using Keychain, to remain  
2 permanently signed on to the app?

3 A. Yes.

4 Q. How do they do that?

5 A. Well, you can sign into an app yourself, and then just it  
6 will remember your log-on. And if you're in Safari, if you've  
7 signed in, it will remember your log-on. You don't have to  
8 use Keychain. It remembers.

9 Q. So if a user sets their device that way, to remember them  
10 and to keep their -- to keep their web page open, if you will,  
11 on Amazon, to remain logged in, what would they see the next  
12 time that they -- they go to Amazon? Where they would be sent  
13 immediately?

14 A. To their page, whatever customization is for them.

15 Q. Okay. So let's talk about how this would apply in the  
16 context of external links within apps.

17 MR. DOREN: And if we can please go to the next  
18 slide.

19 (Demonstrative published.)

20 BY MR. DOREN:

21 Q. And can you tell us what we're looking at here,  
22 Mr. Schiller?

23 A. Well, this is a fictitious app, the Forest Explorer Hiking  
24 app that has a screen for logging in, as well as you can see  
25 the linkout offer and button on the bottom of that screen.

1 Q. And by the way, under Apple's rules, can a linkout be  
2 included on the sign-in page as it is here?

3 A. Sure. That's one of the many places a developer could  
4 choose, whichever is best for them.

5 Q. And I believe counsel, in asking you questions, pointed  
6 out that there's an icon to the right of that that indicates  
7 that this is a linkout; is that correct?

8 A. Yes.

9 Q. And is this a static link?

10 A. It is.

11 Q. And if a user who had previously logged on to the  
12 developer's website were to tap on this button, would they  
13 need to log on to the website again?

14 A. Not unless the developer forced them to, they shouldn't  
15 have to.

16 Q. And would one option be for them to sign in through facial  
17 recognition with Keychain?

18 A. Yes. As we just saw in the Amazon example, a similar  
19 thing can happen here.

20 Q. And would users also have the option to simply remain  
21 permanently logged in to the Forest Explorer website?

22 A. Yes, they could.

23 Q. And can the developer, when someone clicks on these links,  
24 can the developer customize the home page that the individual  
25 user will go to?

1 A. Yes.

2 Q. And even though it's a static URL?

3 A. That's right.

4 Q. How is a user identified in that circumstance?

5 A. Well, as we've just seen, it's -- it's the same  
6 technology. If I go back to the Forest Explorer website, if  
7 I've been there before, it can remember that it's me and it  
8 can be custom to me whenever I linkout from the app.

9 Q. So once logged in for the first time, can a user be  
10 delivered to the same personalized web page as they would be  
11 if they had tapped on a dynamic URL?

12 A. Yes.

13 Q. Let's go back to Exhibit 2 if we can, please, which is the  
14 addendum. And let's go to the well worn section 3.3.

15 (Exhibit published.)

16 **BY MR. DOREN:**

17 Q. And can you tell us, sir, generally -- in other words  
18 broadly, what section 3.3 is for.

19 A. (Reviewing document.)

20 3.3 was a set of terms that we created to help ensure the  
21 developer makes a link that's safe and easy for the user to  
22 use and protects the integrity of the app experience.

23 Q. Okay. And am I correct that the first several bullet  
24 points deal with URL issues specifically?

25 A. Yes.

1 Q. Now before we look at those specifically, there have been  
2 questions and testimony over the last several days about app  
3 transactions involving physical goods and services.

4 Do you recall that topic generally?

5 A. Yes.

6 Q. And, Mr. Schiller, do app transactions for physical goods  
7 and services involve linkouts to external websites?

8 A. No.

9 Q. Do they involve URLs of any type?

10 A. No.

11 Q. How do they work?

12 A. Well, because developers of physical goods apps can use  
13 their own payment method, they provide those payments in the  
14 app. They don't want the user to leave the app because they  
15 can transact with the user in the app.

16 Q. So where do those transactions take place then?

17 A. All on device in the app.

18 Q. Is that where the payment processing take place -- takes  
19 place as well?

20 A. Yes.

21 Q. Is the user's payment information ever transmitted to an  
22 external website?

23 A. Well, it's transmitted through the log-on ID to the  
24 developer's servers but not sent out via link to a website.

25 Q. So in your evaluation of the risks of purchase links or

1 purchase linkouts under this new program from apps to websites  
2 for the purchase of digital goods and currency, did you  
3 consider transactions involving the sale of physical goods to  
4 be relevant to that assessment?

5 **A.** We did not think of that comparison in designing this.

6 **Q.** And -- and why not?

7 **A.** Again, because typically physical goods are doing  
8 transactions within the app, and we don't -- I can't recall  
9 ever seeing a physical goods app that required you to linkout  
10 to then transact versus in the app. It's not saying it's  
11 impossible to occur. I just haven't heard of that.

12 **Q.** There have also been questions and testimony about  
13 developers including external links in their apps for  
14 nonfinancial transactions. Do you recall that topic  
15 generally?

16 **A.** Yes.

17 **Q.** And does Apple, in fact, permit those sorts of links?

18 **A.** Yes.

19 **Q.** What sorts of examples are there?

20 **A.** Well, the simplest and biggest example is that we have  
21 third-party browsers in the App Store. Everything in that app  
22 is a link. So we have to allow linkouts.

23 And then we've used other examples. We have talked in  
24 here about links to privacy policies, links to support, yes.

25 **Q.** And were those links relevant to your risk assessment, if



1 you will, related to external links to websites for the  
2 purchase of digital currency and goods?

3 **A.** We did not consider those relevant to trying to solve for  
4 this new -- new capability.

5 **Q.** Why not?

6 **A.** Well, first, because we can't try to protect users from  
7 every link in every app. It's just -- that's too big a  
8 surface area of issues to take on. We haven't tried to do  
9 that.

10 And this is a unique specific limited method for specific  
11 case which is helping developers to communicate their offers  
12 and link users to them for the purpose of making a purchase.  
13 And we thought that was a targeted, focused enough situation  
14 that could be weaponized against users, that we wanted to try  
15 to make it safe for them.

16 **Q.** And what's unique about those particular types of  
17 interactions, if you will, between the user and the websites,  
18 the internet?

19 **A.** Well, this is -- as we've talked about before, this is a  
20 new thing. I think for the kinds of apps that have digital  
21 content within them for purchase within app, to date there  
22 haven't been linkouts and offers to take the user out of the  
23 app. And so it's just a new experience we're all going to  
24 enter into. And we were worried about the risks that that  
25 might create on users.

1 Q. Let's turn back, if we can, to 3.3. And I'd like to talk  
2 about the specific bullet points that address URL issues.

3 (Exhibit published.)

4 **BY MR. DOREN:**

5 Q. The first one states that the link must go directly to  
6 your website without any redirect or intermediate links or  
7 landing pages.

8 Can you explain to the Court what that means?

9 A. Well, two things. First we just want to make sure, to  
10 state the obvious, that it's going to the website. So where  
11 the user thinks it's going and where app review can check it's  
12 going is where it's going. That's the obvious part.

13 The intermediary link is actually another form of  
14 fraudulent activity on the web that you have an intermediary  
15 page between where the user is going and where they end up  
16 that can redirect.

17 And again people can look this up on the web too. But  
18 it's not an Apple idea. There have been a number of  
19 fraudulent cases perpetrated on users where intermediary links  
20 are used to send users to fishing sites, to malware sites, to  
21 financial scams.

22 And so the intermediary link is something to be concerned  
23 about and want to protect users from being tricked through.

24 Q. Was this requirement included to stifle competition?

25 A. It was not.

1 Q. Did this requirement add friction for the user experience?

2 A. No. It should make it easier because they go straight  
3 where you want them to go.

4 Q. And does this --

5 THE COURT: Yet they can't go to the landing page.  
6 That creates friction, doesn't it? Doesn't it?

7 THE WITNESS: A landing page is -- sorry. We mean  
8 that here as an in-between page, not the final destination.  
9 That's what we intended from that language. Sort of a  
10 waypoint before wherever you're going.

11 So for example, on our own website, apple.com, when you  
12 want to go check out the new MacBook Pro, we have a landing  
13 page in front of it that says "All MacBooks." And then you go  
14 to another page that's the MacBook Pro page.

15 So the intermediary page is a landing page. That's what  
16 we mean by that language, Your Honor.

17 BY MR. DOREN:

18 Q. So the Court may be focused on the last few words of this  
19 bullet point which says go directly to your website without  
20 any redirect or intermediate links or landing page.

21 Is that a reference to the developer's landing page?

22 A. Or anything in the middle that -- that --

23 THE COURT: Yes? Did you -- can you answer his  
24 question?

25 THE WITNESS: I'm sorry.

1 **BY MR. DOREN:**

2 **Q.** The question is the reference to a landing page in that  
3 first bullet point, is that a reference to the website that  
4 the user is intending to link to?

5 **A.** No. The landing page in this sentence does not mean the  
6 page the user is intending to go to.

7 **Q.** What does it mean?

8 **A.** It means a page in the middle before they get there.

9 **Q.** And what's wrong with having those?

10 **A.** Because again it works as an intermediate page that  
11 anything can happen on, and then they can redirect the user to  
12 different pages that they end up on and app review can't check  
13 it.

14 **Q.** And we just went through a series of examples involving  
15 navigating to the amazon.com landing page. Is navigating to a  
16 amazon.com landing in any way prohibitive or limited or  
17 restrained by this bullet point?

18 **A.** No. What we intended with this language was something in  
19 between where the user is going, not where they're going.

20 **THE COURT:** So "intermediate" refers to links and  
21 landing page?

22 **THE WITNESS:** Yes. That's exactly right, Your Honor.

23 **THE COURT:** Not the landing page of the website?

24 **THE WITNESS:** No.

25 **THE COURT:** Go ahead.

1           **MR. DOREN:** Thank you, Your Honor.

2           **THE WITNESS:** I'm sorry. And just one more because I  
3 think this is exactly what you just said, Your Honor. It  
4 depends how you apply the "or." We meant intermediate link or  
5 landing page. So the intermediate was meant to apply to both  
6 the link and the landing page, an intermediate landing page.

7           And if it helps us later to make clearer language, we  
8 should -- we should be happy to do that.

9           **BY MR. DOREN:**

10          **Q.** Does this requirement limit a developer's ability to  
11 direct a user to a customized page, customized for that  
12 individual on their website?

13          **A.** It does not.

14          **Q.** And does this requirement facilitate a meaningful app  
15 review?

16          **A.** It does.

17          **Q.** How does it do that?

18          **A.** Because the web can send people anywhere. But at least if  
19 we have the intention of where they're -- the page the user's  
20 supposed to go to through this process of the entitlement, we  
21 have something to check versus a waypoint that can go anywhere  
22 and then we just don't know what to check.

23          **Q.** And by a waypoint, you mean some sort of intermediate link  
24 or redirect.

25          **A.** That's right.

1 Q. The second bullet point under 3.3 states that the link  
2 must open a new window in the default browser on the device  
3 and may not open a web view.

4 First of all, what's a web view?

5 A. A web view is a method for developers to use HTML and web  
6 technology inside their native app in a seamless way to create  
7 one experience between what's native and what's seamless --  
8 excuse me -- and what's web in such a way that you never  
9 actually leave that app page, you're in the app and on the web  
10 at the same time.

11 Q. What's wrong with that, from Apple's perspective?

12 A. Two things. One, we want to -- the user to at least  
13 understand that they're out on the web. And if it's embedded  
14 inside the app, we think it's less likely that they would know  
15 that they're on the web. If they were taken to their browser,  
16 much higher likelihood that they understand that.

17 And secondly, with the ability to create web views within  
18 the app, you, for all intents, are able to then, as a  
19 developer, create an in-app purchase system.

20 Q. And does this second requirement impede a developer's  
21 ability to direct users to its website through a link in the  
22 app?

23 A. No.

24 Q. Does it impede the developer's ability to send the user to  
25 a page that is customized to that user?

1       **A.** No.

2       **Q.** The third bullet point under 3.3 states that the link must  
3 not pass additional parameters in the URL to protect the end  
4 user, paren, for example their privacy, close paren.

5           What does that mean?

6       **A.** This is what we spoke about earlier that URLs can attach  
7 additional parameters and data about the user that they send  
8 out of the app to the website, often without the user's  
9 knowledge.

10       **Q.** And how extensive can that information be?

11       **A.** As I said, it can be thousands of characters and any  
12 amount of information the developer is able to track about the  
13 user and store about the user in the app can go along with the  
14 URL.

15       **Q.** And how does the passing of additional parameters about  
16 individual users in the URL put their privacy at risk?

17       **A.** Again in multiple ways. First, for that data to be sent  
18 along in the URL, if the developer isn't careful in how they  
19 do their encryption, it's susceptible to hacking on the web.  
20 There have been examples of this before. That's not a new  
21 thing.

22           But assuming that developers are very careful with it,  
23 still the user then may not know it, but the developers could  
24 be tracking what they do in the app and taking personal  
25 information that they don't think is being sent out to the

1 website, they're not aware of it, and it goes with that click.

2 Q. And can it go beyond that website?

3 A. Well, once it's passed out in a URL, depending on the  
4 developer's terms, it can be used for many different purposes  
5 and shared with others.

6 Q. Now, once a user has decided to tap out of the app, one  
7 thing that seems pretty well established here is that most  
8 people know that when they tap on a link, that they're going  
9 out to the internet.

10 Why does Apple care if their personal data is spread  
11 around the internet -- if their users' personal data is spread  
12 around the internet?

13 A. We care. They're our users, and we don't want to take  
14 part in a -- in a scheme that hurts their privacy and the  
15 trust of the app that they got on our store. We're giving  
16 them this app. Whatever happens on the internet happens on  
17 the internet. That's not our business. But the app we give  
18 the user, seeing the button in it, knowing what could be done,  
19 I think it's partly our responsibility as well to try to make  
20 that a safe experience for the user.

21 Q. But shouldn't everyone know once they tap on that link  
22 they're on their own?

23 A. They should, but I don't think many users understand what  
24 parameters are and the extent of the data that can be packed  
25 in parameters and sent out with their clicks.



1 Q. And does this requirement stop a developer from delivering  
2 the user to a personalized page on their website?

3 A. No, it doesn't.

4 Q. Or does it impair the developers' ability to send users to  
5 pages containing special offers?

6 A. It does not.

7 Q. Does it create friction in a user's ability to reach a  
8 developer's website?

9 A. It does not.

10 Q. Or conduct business with that developer?

11 A. It does not.

12 Q. Does this third requirement facilitate an effective app  
13 review?

14 A. Yes, because with a static URL without parameters and  
15 dynamic changing of the URL, the app review team at least has  
16 a chance now to see where the user is going with fair  
17 certainly that that -- until the developer chooses to change  
18 it, that's where they're going to send the user.

19 Q. The fourth bullet point under section 3.3 says that the  
20 URL must be statically defined in your app's info.plist before  
21 submission to the App Store. What does that mean?

22 A. This is just part of the -- the entitlement process.  
23 Plists are normal property lists that the developers submit  
24 for many different purposes when they submit their app to the  
25 App Store. It's Apple's way of -- of developers giving us

1 data that's needed for features.

2 And so this just is the way the developer says here's my  
3 website that I'm sending the user to, and now that's what gets  
4 submitted and included for app review to check.

5 Q. And what does statically defined mean?

6 A. What we've already talked about, that it's a specific  
7 website location that they're going to send users to. It  
8 could be anywhere on their website. It does not have to be  
9 the home page. It could be ten layers deep. But they're  
10 being specific about where they want to send users.

11 Q. And does it impact the ability of a user to tap out to a  
12 developer's website?

13 A. No, it does not.

14 Q. Does it impact in any sort of negative way the user's  
15 experience once they reach that website?

16 A. It does not.

17 Q. Does it impair the developers' ability to direct that user  
18 to a web page that is customized to that user?

19 A. No, it does not.

20 Q. Does it create any friction for the user?

21 A. It does not.

22 Q. Does this requirement facilitate an effective app review?

23 A. Again it does help because now with a statically defined  
24 link shared through the plist as the way to communicate it to  
25 Apple gives us the location to check.

1 Q. And the fifth bullet point which I believe is the last  
2 URL-specific one says that the link shall be resubmitted if  
3 the URL changes. I think I understand that, but what does it  
4 mean?

5 A. Yes, I hope it's -- it's as obvious as it seems. It's --  
6 the developer can change it whenever they want. They just  
7 need to go through the process to submit it so app review can  
8 check it as part of the app submission. They can change it  
9 with every app update they want, but we need to check it to  
10 approve it.

11 Q. And does this impact the interactions between the user and  
12 the developer in any way?

13 A. It does not.

14 Q. Does this requirement facilitate an effective app review?

15 A. It does.

16 Q. How does it do that?

17 A. Again when the developer wants to change the site or their  
18 site they want to send users to, app review will be able to  
19 check it when they submit their app.

20 Q. Thank you, Mr. Schiller.

21 Let's move on to the sixth bullet point in 3.3 which  
22 states that the link must be accompanied by language and a  
23 button adhering to the requirements provided in the Apple  
24 materials.

25 And if I could ask you, sir, to please turn to Exhibit 3

1 which is already in evidence.

2 (Exhibit published.)

3 **BY MR. DOREN:**

4 **Q.** First of all, can you identify for us what this document  
5 is?

6 **A.** This is a support document for developers on our website  
7 that describes the external purchase link entitlement and how  
8 to implement it.

9 **Q.** And is this part of the Apple materials referred to in the  
10 bullet point?

11 **A.** It is.

12 **Q.** Let's turn to page 5, 3.5, again a page that we've all  
13 grown familiar with. And specifically the section entitled  
14 "Templates." Now do you see that?

15 **A.** I do.

16 **Q.** What are these?

17 **A.** These are the words that we've authorized for developers  
18 to use as ways to communicate offers to users within the app.

19 **Q.** Why didn't Apple leave the choice of words to the  
20 developers?

21 **A.** Simply because we're trying to build a system where  
22 hopefully lots of developers will take advantage of this and  
23 then app review knows what to check. And if we there's a  
24 defined set of examples for the developer to use, then app  
25 review has a better chance of being able to check them all and

1 understanding what they're looking for and make sure they're  
2 truthful.

3 **Q.** And how did Apple decide on these options?

4 **A.** We asked the design and business team to go look at all  
5 different ways developers try to build in links in their apps  
6 and what they want to try to communicate, and pick the most  
7 popular ones and base the templates on what we were seeing as  
8 most popular attempts to create links and communications in  
9 apps.

10 **Q.** And obviously we can all read them for ourselves, but can  
11 you just quickly review for us the categories that Apple has  
12 selected?

13 **A.** Sure. The first one simply is a catch-all, go purchase on  
14 the developer's website.

15 The second template talks about special offers. So we  
16 wanted something open-ended that a developer, if they didn't  
17 want to be specific, could have a more generic enticement to  
18 go to their website.

19 The third one is based on being specific about that the  
20 prices are lower.

21 The fourth talks about actual percent off on the website,  
22 X percent, whatever the developer wants to communicate.

23 And last one is specific prices. Here's an exact price  
24 that the developer may want to use to communicate to the user  
25 about.

1 Q. Now, in -- in Apple's documentation, it states that  
2 developers cannot discourage users from using IAP. That is,  
3 within the app, they can't discourage users. And clearly --

4 THE COURT: I thought they said that they couldn't  
5 discourage them, period, both in the app and on the website.

6 MR. DOREN: Thank you, Your Honor. I appreciate the  
7 point. Let's address this.

8 Q. Mr. Schiller, you've heard the Court's concern. Is -- is  
9 criticism or discouragement of the use of IAP permitted  
10 outside of the app?

11 A. Yes, it is.

12 Q. Can you explain that, please?

13 A. We didn't want to distribute an app from us that says what  
14 we do isn't good, don't use us. That's -- we thought was fair  
15 that we shouldn't be forced to distribute something that says  
16 don't do business with us.

17 What happens outside the app on the website that the user  
18 gets sent to, on any other website, on any communication our  
19 intention was to be very clear developers can do or say  
20 whatever they want.

21 Q. So if a user clicks -- taps, I guess is the term I'm  
22 supposed to use. If a user taps on a lower price link using  
23 one of these templates within the app, and they're directed to  
24 a web page, can that web page, can the first thing on it be a  
25 critique of Apple, its commissions, and its IAP?

1 A. Yes, it can.

2 Q. Can developers campaign with users or solicit users to  
3 help them avoid that commission out on their web page?

4 A. Yes.

5 Q. And while Apple says the use of IAP cannot be discouraged  
6 within the -- the app itself, that clearly doesn't foreclose  
7 the statement that lower prices are available elsewhere, just  
8 click here, correct?

9 A. Correct.

10 Q. And to be clear, is there any limitation, any limitation  
11 at all, on what developers can say about Apple, the App Store,  
12 commissions, IAP, or any other Apple-related topic out on  
13 their website?

14 A. No.

15 Q. What about in the text messages they can now send users?

16 A. No limitation.

17 Q. What about in the emails they can send users?

18 A. No limitation.

19 Q. Only in the app; is that right?

20 A. Correct.

21 Q. So staying on page 3.5, and let's look at the three screen  
22 images above the templates. And you've been shown these a  
23 couple of times or they've come up a couple of times in our  
24 time here. But can you please tell us what we're looking at.

25 A. These are design examples to give the developers ideas of

1 kinds of places that it may be advantageous to place this link  
2 and offer.

3 Q. And one option is a sign-in screen. And again, I don't  
4 mean to be somewhere between pedantic and ignorant, but can  
5 tell us what the sign-in screen is specifically?

6 A. Well, in theory many apps will have a sign-in screen.  
7 Some make users sign in frequently. Some not. And it could  
8 be placed right there at that starting points.

9 Q. And the second example declares itself an account screen.  
10 What's that?

11 A. Again a developer may have the user log in or update or  
12 make changes to their account or manage their account, and  
13 that might be another frequent page that the user visits that  
14 may make sense for a developer to place it there.

15 Q. And the third example is simply app page. What is that?

16 A. That means pretty much anywhere in the app that doesn't  
17 obviously interfere with IAP, but anywhere they want on the  
18 app.

19 Q. Does it need to be something that people have to search  
20 for to find?

21 A. No.

22 Q. Does Apple impose any limitations on the size of the font  
23 developers can use for their links?

24 A. No.

25 Q. Do they impose any limitation on the style of the font?



1 A. No.

2 Q. Does Apple impose any restriction on the colors developers  
3 can use for their templates?

4 A. No.

5 Q. Let's look, please, at demonstrative CDX-1001.002.

6 (Demonstrative published.)

7 BY MR. DOREN:

8 Q. Mr. Schiller, can you tell us what we're looking at here?

9 A. Well, we thought that since the previous document had some  
10 pretty simple design styles, we wanted to make sure it was  
11 very clear that those are not the limitations of what a  
12 developer can do with the guidelines for the link. And so we  
13 created three more examples to show you what would be approved  
14 as examples of links in an app.

15 Q. And are each of these examples on CDX-1001.002 permissible  
16 under Apple's guidelines?

17 A. Yes.

18 Q. And would each of these examples be permitted for a --  
19 under the entitlement?

20 A. Yes.

21 Q. And again, other than where they are in, on -- or excuse  
22 me -- on the same screen as an IAP button or in the stream of  
23 purchase, are they permitted anywhere on the app?

24 A. Yes.

25 Q. And who makes the decision as to where they will go?

1 A. The developer.

2 Q. Let's talk about buttons. And if we can please turn to  
3 Exhibit 16 in your binder, which is also in evidence.

4 And let's look if we can, please, at page 16.3.

5 A. (Reviewing document.)

6 Q. And at the bottom, we see different button styles,  
7 correct?

8 A. Yes.

9 Q. Now there's been a lot of discussion about the selection  
10 by Apple of plain buttons for use of external links. You're  
11 familiar with that discussion, correct?

12 A. Yes.

13 Q. Well, first of all, how long have plain buttons been in  
14 use at Apple?

15 A. Well, they predate iOS, but for as long as there's been  
16 iPhone and iOS.

17 Q. And why did Apple choose the plain button style to link to  
18 external websites?

19 A. Because we wanted a style that would be likely to be clear  
20 that this is a web link and not an in-app purchase. Web  
21 links, I think we're all used to as text links that have more  
22 like the plain style than any of the other styles here for  
23 button. And so we're trying to create a consistent user  
24 experience where they understand this is a link to go out.

25 Q. And in terms of again we've heard repeatedly about robust,

1 back-shadowed, contrasting IAP buttons in apps. Who designs  
2 the IAP button to be included in an app?

3 A. The developers do.

4 Q. Could the developer select a plain IAP button if they  
5 wished?

6 A. Sure. I've seen many.

7 Q. Could they have a plain IAP button in small font and a  
8 large bright red linkout for their own website elsewhere in  
9 the app?

10 A. Yes, they can.

11 Q. Now, Mr. Fischer was asked by the Court whether there was  
12 any reason other than to stifle competition for the  
13 requirement that a plain button be used.

14 Do you recall that question?

15 A. I do.

16 Q. My question to you, sir, is, was the plain button selected  
17 to stifle competition?

18 A. It was not.

19 Q. Why does Apple require that the plain button be used?

20 A. We simply wanted to be clear to the user that this is a  
21 link that will take them out of the app to go make that  
22 purchase.

23 Q. And how does this make that clear?

24 A. Because it more closely matches the style of hyperlinks  
25 and other internet links that we're used to seeing.

1 Q. And in fact, we've heard counsel reference the fact that  
2 most everyone in the world understands that if you click on  
3 something that says www.example.com, people know they're going  
4 to the internet. Do you recall that?

5 A. Yes, I do.

6 Q. Let's talk about the disclosure screen, and we'll look at  
7 that back in Exhibit 3, page 5, at the bottom of the page  
8 there.

9 (Exhibit published.)

10 THE WITNESS: Yes, I see that.

11 BY MR. DOREN:

12 Q. And I think we've established this, but I'm going to ask  
13 anyway. Are you familiar with this screen?

14 A. I am.

15 Q. And did you have input in its design?

16 A. Well, I was in the design meetings and was one of the ones  
17 who approved it.

18 Q. What's the purpose of this screen?

19 A. We believe it's important that a user who taps on a  
20 linkout have one notice that they're about to leave and go  
21 someplace else, and that they are made aware of some of the  
22 things they would previously assume would be the case with an  
23 in-app purchase aren't the case here. We thought those items  
24 were important to communicate.

25 Q. Well, we just explained why the plain button was used to

1 make obvious that it's an external link. So why this screen  
2 as well?

3 **A.** Two things. Well, first -- well, I hope everybody  
4 understands that that's what that text means. I don't believe  
5 that's universally true. I think people won't always  
6 understand.

7 And, for example, I might think the offer is coming from  
8 the site but it's still in the app. I don't realize I'm going  
9 to -- and with over a billion users, we have to try our best  
10 to predict what even a few percent, means millions of people  
11 are going to have issues. So we -- we worry about those  
12 things.

13 But secondly, this is a touch screen. People touch things  
14 on them all the time -- I do, too, but I didn't mean to.  
15 Ideally you don't want to accidentally touch this button and  
16 be thrown out -- we call it do-si-do. Do-si-do out to the web  
17 and you don't know why that just happened.

18 And so I think for both those reasons, making sure it's  
19 transparent to the user about what's going to occur and also  
20 to give the user a confirmation before they leave the app and  
21 go onto the internet are both good reasons for wanting to have  
22 a sheet like this.

23 **Q.** Now, are any of the statements on this screen untrue?

24 **A.** Not to my knowledge, no.

25 **Q.** And do you consider the statement that you are about to go

1 to an external website to be redundant of tapping on an  
2 external website link?

3 **A.** Not entirely, no. Because, again, I think there are  
4 examples where people will tap and not realize they're leaving  
5 the app, and so this will hopefully make it clear.

6 **Q.** In examination by Epic, you were shown Exhibit 38, CX-38,  
7 which is now evidence. It's not in the binder I handed you,  
8 but let's put it up on the screen and see if we can handle it  
9 that way.

10 **A.** Okay.

11 (Exhibit published.)

12 **BY MR. DOREN:**

13 **Q.** And specifically let's go to the second paragraph. And  
14 counsel pointed out the first sentence here, that we believe  
15 Apple's in-app purchase system is the most convenient, safe,  
16 and secure way for users to purchase digital goods and  
17 services. Do you see that?

18 **A.** I do.

19 **Q.** And he declared that a data-free presentation. Do you  
20 recall that?

21 **A.** Yes.

22 **Q.** Does Apple, in fact, have data in its possession that  
23 shows that it is a convenient, safe and secure way for users  
24 to purchase digital goods and services?

25 **A.** We do.

1 Q. Let's look, please, at Exhibit CX-1005 which is in your  
2 binder.

3 (Exhibit published.)

4 **BY MR. DOREN:**

5 Q. And this is already in evidence.

6 Can you please tell us what this is.

7 A. This is a report on fraudulent transactions from the App  
8 Store from May 16th of 2023.

9 Q. And who -- who makes these reports and how often?

10 A. This is an annual report that Apple produces.

11 Q. And let's turn, if we can, please -- we aren't going to go  
12 into a lot of detail on this, but let's look at a couple of  
13 highlights. And specifically page 2, there's a blue table in  
14 the middle. Do you see that?

15 A. I do.

16 Q. And what is this -- what information does this table  
17 reflect?

18 A. So this callout talks to three data points specifically  
19 that occurred during 2022 where we helped protect App Store  
20 users from these three different types of fraudulent  
21 activities.

22 Q. And let's look, please, at the table on page 3.

23 (Exhibit published.)

24 **BY MR. DOREN:**

25 Q. And can you please tell us what this -- information this

1 table communicates?

2 **A.** This is an accounting of, again in 2022, 1.7 million app  
3 submissions that were rejected for different concerning  
4 reasons.

5 **Q.** Are these data some of the reasons that Apple believes its  
6 in-app purchase system is the most convenient, safe and secure  
7 way for users to purchase digital goods and services?

8 **A.** It is.

9 **Q.** And --

10 **THE COURT:** Any of these apps include apps from your  
11 200 large developers from which most of the activity comes?

12 **THE WITNESS:** I -- I can't say. But I think it's  
13 reasonable for me to assume that most of these do not involve  
14 the top 200 apps.

15 **THE COURT:** So these are the smaller players?

16 **THE WITNESS:** Many are the smaller players, certainly  
17 the largest number of them. But we have had fraudulent  
18 activity in larger apps too. It's not only smaller apps.

19 **THE COURT:** Okay.

20 **BY MR. DOREN:**

21 **Q.** Mr. Schiller --

22 **MR. BORNSTEIN:** I'm sorry, Your Honor. While we  
23 paused in the examination I just wanted to know --

24 **THE COURT:** I can't hear you.

25 **MR. BORNSTEIN:** Sorry. Can you hear me, Your Honor?



1           **THE COURT:** The mic needs to be on. You can come to  
2 a microphone.

3           **MR. BORNSTEIN:** Is it on?

4           **THE COURT:** No. Just come up to a mic.

5           **MR. BORNSTEIN:** My understanding, Your Honor, was the  
6 document we were just looking at, when it was admitted  
7 previously, it was admitted for a non-hearsay purpose. So I  
8 just wanted to preserve our objection to the admission of that  
9 information from the document for the truth. That was all.

10          **THE COURT:** Noted.

11          And we will need to take another break. Mr. Doren, is now  
12 a good time?

13          **MR. DOREN:** Yes, Your Honor.

14          **THE COURT:** All right.

15          **MR. DOREN:** Thank you.

16          **THE COURT:** Let's go ahead and stand in recess until  
17 12:30.

18          (Recess taken at 12:16 P.M.; proceedings resumed at  
19 12:32 P.M.)

20          **THE COURT:** Okay. We're back on the record. The  
21 record will reflect that the parties are present.

22          Mr. Doren, you may proceed.

23          **MR. DOREN:** Thank you, Your Honor.

24          **Q.** Mr. Schiller, looking back briefly at Exhibit 1005, you  
25 testified earlier that you had not seen information about

1 security published by your competitors. Do you recall that?

2 (Exhibit published.)

3 **THE WITNESS:** Yes, I do.

4 **BY MR. DOREN:**

5 **Q.** And now that we have this information in front of us, have  
6 you seen reports like this issued by any of Apple's  
7 competitors?

8 **A.** I haven't.

9 **THE COURT:** You said you have or have not?

10 **THE WITNESS:** I'm sorry. I have not.

11 **BY MR. DOREN:**

12 **Q.** And, Mr. Schiller, as the Court has pointed out, a great  
13 deal of in-app revenue is generated from some very large  
14 developers. And first of all, is that accurate?

15 **A.** Yes.

16 **Q.** And Exhibit 38 which we were just looking at, this is a  
17 page directed toward developers, correct?

18 **A.** Yes.

19 **Q.** Is this page for consumption by users?

20 **A.** No.

21 **Q.** And while I don't want to go through any of the names on  
22 the list of 200, I'd like to ask you about a few of the  
23 entities that have filed amicus briefs with the Court, and  
24 specifically, sir, I'd like to ask you whether, in your  
25 experience, Spotify would rely on any statements in this

1 developer page in deciding whether or not to use -- to seek an  
2 entitlement for a linkout?

3 **A.** I can't speak to what Spotify --

4 **MR. BORNSTEIN:** Your Honor.

5 **THE COURT:** I can't hear you. What's the objection?

6 **MR. BORNSTEIN:** Mr. Schiller just made it for me.

7 Speculation.

8 **BY MR. DOREN:**

9 **Q.** Go ahead, Mr. Schiller.

10 **A.** I can't speak to what Spotify would or wouldn't do. I'm  
11 sorry.

12 **Q.** And likewise you wouldn't know about Match or Microsoft or  
13 Meta or X or Disney or any of the large developers that filed  
14 amicus briefs with this Court, correct?

15 **A.** As it relates to this page, no, I wouldn't --

16 **Q.** Thank you.

17 **A.** -- know what they think of it.

18 **Q.** Now going back, if we can, please, to Exhibit 3, page 5 in  
19 the disclosure screen.

20 (Exhibit published.)

21 **BY MR. DOREN:**

22 **Q.** Does Apple use screens like this with other apps?

23 **A.** Yes.

24 **Q.** What types of other apps?

25 **A.** Well, it's -- it's a similar disclosure sheet for reader

1 apps that use a linkout for -- for linking users out from a  
2 reader app to go set up an account on their site.

3 Q. Now, earlier in this hearing, we saw some pages relating  
4 to Netflix, and I would like to direct your attention, please,  
5 to CDX-1001-04. And this is a demonstrative.

6 And do you recognize what this demonstrative is?

7 (Demonstrative published.)

8 **THE WITNESS:** It appears to be the Netflix app before  
9 you've signed in.

10 **BY MR. DOREN:**

11 Q. And who designed this?

12 A. Netflix.

13 Q. Did Apple have any say in how this page was presented?

14 A. No.

15 Q. And what's the purpose of this page?

16 A. Well, for a new user that needs to sign in to their  
17 account from the Netflix app, which is a reader rule app, this  
18 is the page the user is presented with to figure were out how  
19 to go do that.

20 Q. All right. And you see about two-thirds of way down, it  
21 says, "Create a Netflix account and more at netflix.com/more"?

22 A. Yes, I see that.

23 Q. Is that a static URL?

24 A. It is.

25 Q. And what's the purpose of this URL?

1     **A.** It's so that Netflix can direct users to their website to  
2     go create a brand-new account and pay for it.

3     **Q.** So the sign-in button down at the bottom, that isn't how  
4     you get out -- out for that purpose, correct?

5     **A.** No. That's if you already have an account and you're now  
6     logging into the app maybe for the first time.

7     **Q.** So this is for logging into the app within the iOS  
8     environment; is that right?

9     **A.** Yes.

10    **Q.** But to link out to the web, you click onto this simple --  
11    or excuse me -- plain button, correct?

12    **A.** Yes.

13    **Q.** And did Netflix choose that plain button?

14    **A.** Yes.

15    **Q.** It didn't use a filled and shaded button?

16    **A.** Not here, no.

17    **Q.** Has anyone ever expressed concern to you that the use of  
18    this plain button may cause user confusion?

19    **A.** No, I've not heard that.

20    **Q.** Or that it may be overlooked by users?

21    **A.** Again, I've not heard that.

22    **Q.** Has anyone ever told you that people may be less inclined  
23    to click out to the Netflix website because this is not a  
24    shaded and filled button?

25    **A.** No, I've not heard that.

1 Q. Now, when someone who does want to open a new Netflix  
2 account and they tap on that plain button, what do they see  
3 next?

4 A. They should get a disclosure sheet.

5 (Exhibit published.)

6 THE WITNESS: There you are. That tells you you're  
7 about to leave the app and go into the website.

8 BY MR. DOREN:

9 Q. And while we saw another that said "Example," this one  
10 specifically says "Netflix," correct?

11 A. Yes.

12 Q. And why is that?

13 A. Because that's how it looks when it's actually used by a  
14 developer.

15 Q. And this is a real screen in use currently; is that right?

16 A. It appears to be, yes.

17 Q. Now, has Netflix ever complained about this screen costing  
18 its business?

19 A. Not that I've heard.

20 Q. Has Netflix ever complained about this screen creating  
21 friction with users?

22 A. Again, not that I've heard.

23 Q. Or stifling competition?

24 A. Not that I've heard.

25 Q. And how is Netflix doing with its app on iPhone?

1     **A.** Well, they're certainly the -- most people call them the  
2     market leader in streaming. They're certainly one of the top  
3     streaming apps in the world.

4     **Q.** So if we're talking about really large developers, this  
5     would be one; is that fair?

6     **A.** Yes.

7     **Q.** Now is Apple the only entity that uses these disclosure  
8     screens to tell users they're leaving the website and going to  
9     the internet?

10    **A.** No, not at all.

11    **Q.** Have you, sir, looked at the website of the Federal Trade  
12    Commission?

13    **A.** Yes, I have.

14    **Q.** Let's take a look, please, if we can at 1001-003.

15                                 (Demonstrative published.)

16    **BY MR. DOREN:**

17    **Q.** Do you recognize this screen?

18    **A.** Yes, I do.

19    **Q.** And what is it?

20    **A.** If you go to the Federal Trade Commission's website, it's  
21    just type in ftc.gov, you're on their home screen. And then  
22    if you scroll down just a bit, you're going to find some links  
23    for social media sites, Facebook, Instagram, Twitter. And if  
24    you tap one of those links, this is what the FTC shows you.

25    **Q.** And the FTC says you are about to access, and then it

1 provides the website, web page address, correct?

2 **A.** Yes.

3 **Q.** And then it goes on to say that:

4 The Federal Trade Commission does not endorse the  
5 organizations or views represented by this site and takes no  
6 responsibility for and exercises no control over the accuracy,  
7 accessibility, copyright or trademark compliance or legality  
8 of the material contained on this site. The destination  
9 site's privacy policy, if any, will govern while accessing  
10 this site. To learn more about how we protect your privacy on  
11 ftc.gov, read our privacy policy.

12 Do you see that?

13 **A.** I do.

14 **Q.** Is there anything improper in your view, Mr. Schiller,  
15 with any of the information set out there?

16 **A.** Not in my view.

17 **Q.** In your opinion, sir, is that language intended to scare  
18 people?

19 **A.** No.

20 **Q.** And when you go to the FTC site and you click out, if you  
21 were to do that on multiple occasions, would you see this  
22 screen each time?

23 **A.** Yes, each time.

24 **Q.** Is there anything improper with that?

25 **A.** I don't think so.



1 Q. And are Apple and the FTC the only two entities that use  
2 these disclosure pages?

3 A. No, I don't believe so.

4 Q. Have you seen them on other occasions over the course of  
5 your career?

6 A. Yes.

7 Q. Let's look too, please, if we can, at CDX-3. And this was  
8 a document or a demonstrative, rather, that was used with  
9 Mr. Fischer.

10 (Demonstrative published.)

11 **BY MR. DOREN:**

12 Q. And it was pointed out to Mr. Fischer that the screen on  
13 the right is smaller than the screen on the left.

14 Now do you recall that generally?

15 A. Yes.

16 Q. And, sir, do you know why the screen on the right is  
17 different than the screen on the left?

18 A. Yes.

19 Q. Why?

20 A. The screen on the right is asking the user if they wanted  
21 to let the developer track them or not. But they're not  
22 leaving their app. They're staying exactly where they were on  
23 the same page.

24 Q. So are those two different scenarios?

25 A. Very different.

1           **THE COURT:** So if the FTC's half page is good enough  
2 for the FTC, why is it not good enough for Apple?

3           **THE WITNESS:** Both are good methods, Your Honor. We  
4 use the technology --

5           **THE COURT:** So you don't have any objection to making  
6 that half a page?

7           **THE WITNESS:** Only that, yeah, it will be more work,  
8 but no objection to it conceptually.

9           **BY MR. DOREN:**

10          **Q.** And let's take a look if we can back at that page, sir.  
11 And we see that the language takes up what it takes up. And  
12 what happens to the rest of the page behind it?

13                               (Demonstrative published.)

14          **THE WITNESS:** It gets shaded over in blue.

15          **BY MR. DOREN:**

16          **Q.** Thank you.

17               So let's go back to Exhibit 2 and section 3.3.

18                               (Exhibit published.)

19          **BY MR. DOREN:**

20          **Q.** And now I'd like to go to the next bullet point in order.  
21 It is the fourth bullet point from the bottom, which states  
22 that a link must not mimic Apple's in-app purchasing system  
23 nor discourage end users from using it. Do you see that?

24          **A.** Yes.

25          **Q.** Why is this bullet point included?

1     **A.** Again, the concept here was that in the app that Apple  
2     distributes for the developer, it's not specifically asking  
3     Apple to distribute something that within it says not to use  
4     Apple for in-app purchase in our business.

5     **Q.** And does this phrase, "nor discourage end users from using  
6     it," does that have any application at all to communications  
7     outside of the app?

8     **A.** No. This is simply a section about the link itself in the  
9     app.

10    **Q.** And when you say that it cannot discourage end users from  
11    using IAP, does that have any impact on the users' ability --  
12    excuse me -- the developers' ability to use the templates to  
13    tell users that there are cheaper prices elsewhere?

14    **A.** No.

15           **THE COURT:** So we're now at the seventh bullet point,  
16    not the fourth.

17           **MR. DOREN:** Correct, Your Honor. That's right.  
18    Fourth from the bottom. I'm sorry. I changed order on you,  
19    and I apologize for that.

20           **THE COURT:** So we skipped over 6.

21           **MR. DOREN:** We'll get there. I'll cover them all for  
22    you.

23    **Q.** So continuing in order so we're all literally on the same  
24    page, the next bullet point says that the link must be  
25    displayed in your store kit external purchaser link app on no

1 more than one app page the end user navigates to, not an  
2 interstitial, modal, or pop-up in a single dedicated location  
3 on such page --

4 **THE COURT:** Mr. Doren.

5 **MR. DOREN:** Yes, ma'am.

6 **THE COURT:** Can we go back?

7 **MR. DOREN:** Yes.

8 **THE COURT:** So here, you go to the seventh bullet,  
9 fourth from the bottom, that's where Apple says you cannot  
10 discourage end users from using it, it being the in-app  
11 purchase system.

12 **THE WITNESS:** Yes, Your Honor. And what we mean and  
13 intend by this is this is a bullet under the link you provide  
14 must..., and so we are only talking about the link as it  
15 appears in the app, not anything outside of the app.

16 **THE COURT:** All right. Now you can move on. Thanks.

17 **MR. DOREN:** Thank you, Your Honor.

18 **Q.** And, sir, you spoke about it briefly with counsel, but can  
19 you please remind us what an interstitial is?

20 **A.** Interstitial would be a -- call it an in-between page, a  
21 page before you get to the page you're intending to take the  
22 user to.

23 **Q.** And what is a modal?

24 **A.** A modal is a window that you open up on your app above  
25 whatever the user is doing that the user then must interact

1 with to make it go away.

2 Q. And what is a pop-up? That one I think I know, but you'll  
3 have to define it for us anyway.

4 A. Again another window that may come up, and this one you  
5 don't have to interact with it, it can stay up or go away.

6 Q. And you testified earlier that each of these could be used  
7 in various contexts in apps, correct?

8 A. Yes.

9 Q. And yet here, this bullet point states that they cannot be  
10 used in relation to the developer's link. Why treat them  
11 differently?

12 A. Our -- our only intention with these three examples were  
13 they're tools that can be used to interfere with in-app  
14 purchase. I could -- if a developer -- the user is trying to  
15 go to a purchase and instead have an interstitial page that  
16 gets in the middle of that and says, wait, before you go we  
17 want to interrupt what you're about to do.

18 Or a modal or pop-up are two things that could happen on  
19 top of whatever user experience is underneath. And again that  
20 experience might be the in-app purchase experience.

21 So our intention in writing these three things were simply  
22 to not have techniques that could interfere with in-app  
23 purchase.

24 Q. Any other reason?

25 A. That was the only reason we had in mind when we created

1 those.

2 Q. And why is it required that the link app appear on no more  
3 than one app page?

4 A. Well, our thought on that was simply can we scale to check  
5 these across many apps through app review, and if it was  
6 open-ended and there were an unknown number or a lot of them,  
7 if we're hopefully to get thousands and thousands of apps  
8 doing this, that scale would become difficult to manage and  
9 difficult to try to make safe for users.

10 Q. And in that same bullet point, there's the phrase "the  
11 page the end user navigates to." Is that intended to limit  
12 the location of the purchase link in any way?

13 A. No. In fact our hope was the opposite, that developers,  
14 other than not getting in the way of in-app purchase, could  
15 put it anywhere they wanted in their app.

16 Q. And, sir, in the seventh bullet point from the top, we  
17 have the not mimic. And then in the eighth, what we just  
18 discussed. And then in the ninth, must not be displayed on  
19 any page that is part of an in-app flow to merchandise or  
20 initiate a purchase using in-app purchase.

21 And again, can you explain to the Court why that  
22 requirement is there?

23 A. We were trying to make sure that we have a system here  
24 where developers can communicate clearly with users about  
25 great offers on their website without also trying to undermine

1 and keep IAP from working appropriately for users and  
2 confusing them about how that works.

3 So that was what we were trying to separate. Show it  
4 wherever you want, but once they're starting the buying  
5 process with in-app purchase, don't -- don't ruin how that  
6 process works.

7 Q. And you were asked some questions about comparison  
8 shopping with -- with jeans out on the -- on the display floor  
9 and jeans back in the storeroom.

10 How about comparison shopping if you're looking for  
11 ladders at Lowes and ladders at Home Depot, what do you do  
12 then?

13 A. Well, then you're going to two different places.

14 Q. And which is the better comparison to what we're talking  
15 about here?

16 A. Well, I believe the latter -- no pun intended. Well, I  
17 didn't mean to do that, the latter. But, again, I thought the  
18 intention here was not to replace in-app purchase with a  
19 completely different in-app purchase process.

20 Q. And, Mr. Schiller, you were asked questions about -- about  
21 the interstitial, modal, or pop-up. And you were asked  
22 whether that hides information from users. And I wrote down  
23 your answer. It was possibly sometimes, not always. And I  
24 was -- I was confused about that so I wanted to ask you what  
25 you meant.

1     **A.** Again, I think the -- there's the possibility here with  
2     some of these techniques, if there aren't some of these  
3     guidelines, to create confusion for the user intentionally  
4     where they don't know what's in-app purchase and they don't  
5     know is intended to drive into a linkout, and then that will  
6     create mistrust in the whole in-app purchase system.

7             And that's the general concern I and others have had about  
8     how to implement this in a way that both stay true that it's  
9     clear communication to all users and it is that in-app  
10    purchases still works and protects users as it did before.

11    **Q.** You also testified earlier today that having the two  
12    payment options on the same page may create a trust issue and  
13    therefore a fraud issue.

14            Do you recall that generally?

15    **A.** Yes.

16    **Q.** Can you describe what you meant, please.

17    **A.** If -- if -- if developers are able to create confusion,  
18    intentionally or unintentionally, around how in-app purchase  
19    works or what is in-app purchase versus something else, and  
20    ultimately, not the good developers, but some of the bad  
21    actors out there, take advantage of that and drive users to  
22    purchase models that are not safe, then that can undermine the  
23    ecosystem and ultimately hurt the trust users have because  
24    they may not understand or always trust that what they got  
25    from Apple is a safe purchase and has all the purchase



1 features we provide.

2 Again, I don't think that's always the intention of a good  
3 developer, but we're trying to make rules here that protect  
4 users not only from unintentional things but from true  
5 intentional bad actors.

6 **THE COURT:** So you're creating a system for the  
7 lowest common denominator, which harms --

8 **THE WITNESS:** Certainly not. I didn't --

9 (Simultaneous colloquy.)

10 **THE COURT:** -- which harms those who do it properly,  
11 right? To your benefit.

12 **THE WITNESS:** It -- I'm not trying to do this to our  
13 benefit, Your Honor. I'm trying to find that balance of the  
14 two systems that can work together for everybody.

15 **THE COURT:** The problem is that, as you've indicated,  
16 all that this does is maintain the noncompetitive environment  
17 that exists.

18 **THE WITNESS:** I think we've done more than that, but  
19 I understand the questions and the concerns.

20 **THE COURT:** Was there any discussion given to having  
21 a certification, for instance, where those not lowest common  
22 denominator bad actors, like Netflix, obviously you -- Amazon,  
23 you trust those folks, where they would be given more latitude  
24 than you're allowing because of these supposed bad actors?  
25 Any discussion?

1           **THE WITNESS:** I don't -- no, we didn't have any  
2 discussion about a certification program.

3           **THE COURT:** Proceed.

4           **MR. DOREN:** Thank you, Your Honor.

5           **Q.** Mr. Schiller, Apple now -- now permits external links to  
6 be included by developers within their apps, correct?

7           **A.** Yes.

8           **Q.** And it permits them to inform users of deals to be had  
9 through their websites, correct?

10          **A.** Yes.

11          **Q.** And it also permits developers to communicate in any way  
12 they want and on any topic they want outside of the app with  
13 their users, correct?

14          **A.** Yes.

15          **MR. DOREN:** And, Your Honor, the sixth bullet point,  
16 the Court referenced that perhaps we had skipped that. That  
17 is the one regarding language and a button, and we did hit  
18 that before the break. I just don't want you to think I  
19 skipped it.

20          **THE COURT:** Yeah, I didn't mention or I didn't put  
21 the note --

22          **MR. DOREN:** Thank you. Thank you.

23          **Q.** Mr. Schiller, the Court posited a scenario in which a user  
24 taps out from an app, makes a purchase on a website, and then  
25 never returns to the app, to iOS specifically.

1 And she asked whether Apple would receive a commission on  
2 subsequent transactions.

3 And starting there, what's the answer to that question?

4 **A.** We do receive commissions for that seven-day window.

5 **Q.** And by the way, is it typical for users to be in an iOS  
6 app, tap out, or make a purchase elsewhere and then never come  
7 back to the iOS app?

8 **A.** Hard for me to say. I haven't studied that. I'm familiar  
9 with the world where for the majority of time, users stay in  
10 their iOS apps. That's been the feedback from so many large  
11 developers for over a decade now that the majority of the work  
12 is to keep users in the iOS app, and that's where most of that  
13 experience occurs.

14 **Q.** And then going back to the Court's scenario where you have  
15 a user that taps out, makes a purchase, and then never comes  
16 back to iOS, remains outside of it and doing business on the  
17 website, does the developer benefit from that?

18 **A.** I would hope so, yes.

19 **Q.** How so?

20 **A.** Well, then in that scenario, that is a customer  
21 acquisition model where the developer used their app and their  
22 distribution in the store to find a customer, bring them out  
23 to their website where presumably they must be doing other  
24 things there for them to stay there, or on other platforms.  
25 And in that case, it's a very popular thing in marketing for

1 apps to use a tool for a customer acquisition.

2 Q. You mentioned earlier today that you would expect  
3 developers to optimize this program to steer as much business  
4 as possible to their sites. Do you recall that generally?

5 A. Yes, I do.

6 Q. How can developers optimize this program?

7 A. We're just at the beginning, and I think they and we will  
8 discover many things going forward. But some of the obvious  
9 ones to me that I would think any developer will spend time  
10 doing is figuring out of course where in their app they want  
11 to place a link for maximum performance; where -- to -- when  
12 to place it. There's a time element to this. You may want to  
13 optimize the moment and when you want to show it.

14 Developer may also want to optimize who they show it too.  
15 For example, you may want to show the link to users who have  
16 never visited your website and you want to get them there.  
17 But you may not want to send it -- show it to a user who's  
18 been to your website via the link in the last seven days  
19 because you don't want Apple to get any more of those  
20 transactions. I think developers have a lot to think about  
21 and consider with tools to do that.

22 And that's -- excuse me. That's all in the app.

23 Then on the website similarly they can decide what offers  
24 to make to the user at any time. They can consider whether  
25 the user has recently come from the app, make one set of

1 offers. They may expand those offers after a week to include  
2 other things that they then don't share the commission on.

3 Those are many tools to optimize and learn what creates  
4 the best situation for the developer and their users.

5 And then on top of that, we really have to consider that  
6 the out-of-app communication is part of the whole solution as  
7 well. Because I'm considering what's in my app, I'm  
8 considering the website, and then I may want to attract  
9 certain users back at the right time to my website for certain  
10 offers and use that direct communication to drive that.

11 These are all tools for them to -- to work with.

12 And then last, I want to point out that any user that goes  
13 to a website to make a purchase, by definition the developer  
14 has and it gets their user identity, their payment method, and  
15 now they're part of their system. And -- and this is an  
16 opportunity for developers to create a sticky, you know,  
17 experience that brings users back to their website and drives  
18 them to those better methods to pay if that's what they offer.

19 And so these are all things to be considered and worked on  
20 to optimize.

21 **Q.** And when you mentioned that developers can decide when to  
22 show the template and when not to, can that be individualized  
23 on a user-by-user basis?

24 **A.** It absolutely can if the developer choose to.

25 **Q.** There's been a lot of discussion about adoption rate, and

1 one question that the Court has had is what examples Apple has  
2 of instances other than this where there have been low initial  
3 adoption rates.

4 As you sit here today, sir, can you think of other  
5 instances where Apple -- where there's been a slow ramp-up, if  
6 you will, for new programs at Apple?

7 **A.** Sure. Probably one of the biggest ones I recall was when  
8 we created the subscription program, the ability to do  
9 recurring subscriptions in apps. It was based on a lot of  
10 developer feedback that they wanted a tool like this.

11 But we had to do work in the beginning to explain it, to  
12 help developers with it, promote it, get them to use it.

13 And would they have accelerated the same rate without that  
14 work? I don't know. I can't run the experiment both ways.  
15 But we certainly put a lot of effort into adoption of it.

16 I think the same was true with the multi-platform rule in  
17 the beginning. It was interesting to a few developers, but it  
18 took some communication and -- and work together with  
19 developers to get it to the place where it's become extremely  
20 valuable and popular with developers.

21 We're doing it right now with the DMA. We're just at the  
22 beginning of that in Europe. And we've had literally  
23 thousands of communications, one-on-one communications with  
24 developers to explain it to them, to get their feedback, to  
25 clarify things, update things so we can make it better. And

1 it's beginning. It's going up that hockey stick curve, but we  
2 have a lot more work to do there too.

3 Q. Now, counsel tried -- or drew a distinction between things  
4 that Apple wanted adopted and things that Apple didn't want  
5 adopted and suggested that this would not be something that  
6 Apple would push, that this program is not something that  
7 Apple would push.

8 What's your response to that?

9 A. That's certainly not my view and not how I am working with  
10 our team. This is something that we must get implemented and  
11 adopted. And -- and we need to do the work, and that's my  
12 only expectation on this.

13 Q. Let's turn back to the injunction, please, which is  
14 document number 813 in the court docket.

15 (Exhibit published.)

16 BY MR. DOREN:

17 Q. And let's focus now on romanette two which has received  
18 very little discussion on the course of this hearing.

19 Under romanette two, Apple is permanently restrained and  
20 enjoined from prohibiting developers from communicating with  
21 customers through points of contact obtained voluntarily from  
22 customers through account registration within the app.

23 And, sir, first of all, you've seen this -- this  
24 injunction language before, correct?

25 A. Yes.

1 Q. And do you recognize the language that the Court used in  
2 romanette two?

3 A. Yes, I do.

4 Q. And where do you recognize that from?

5 A. That was also a term within our guidelines for developers.

6 Q. And has Apple taken any action in relation to that  
7 guideline?

8 A. Yes.

9 Q. What has Apple done?

10 A. That's also been removed for developers.

11 Q. And let's look now, please, at Exhibit 13, CX-13, which is  
12 in evidence. And specifically if we can look at page 13.22,  
13 and section 5.1.1 romanette 10.

14 (Exhibit published.)

15 **BY MR. DOREN:**

16 Q. Do you have that in front of you, sir?

17 A. Yes, I do.

18 Q. This provision says in part that apps may request basic  
19 contact information such as name and email address so long as  
20 the request is optional for the user.

21 When was this provision added?

22 A. This was added this year as well, as part of this  
23 requirement to -- part of us meeting the requirements of the  
24 injunction.

25 Q. And does the information that can be collected include



1 cell phone numbers?

2 A. Yes, that would be included.

3 Q. And did this change Apple's preexisting policy?

4 A. Yes, it did.

5 Q. How?

6 A. Well, in addition to removing the previous language that  
7 we talked about, this is section 5.1.1 about data collection,  
8 basically it's our privacy terms for developers to help  
9 protect user privacy from the information a developer might  
10 get.

11 And historically in the section we've told developers you  
12 can only collect the information necessary to the features of  
13 your app, to performance for the user of your app.

14 And what we realized that in removing the previous  
15 language that we discussed, that developers may now look to  
16 this privacy section, say, well, you let me communicate but  
17 you don't let me get email and name or phone number if it's  
18 not about the performance or features of my app.

19 And so we added this section 10 to make it really clear,  
20 yes, you can go collect that information now.

21 Q. And let's look back, please, in the same document to  
22 page 13, and paragraph 3.1.3. And the last sentence in that  
23 paragraph which states developers can send communications  
24 outside of the app to their user base about purchasing methods  
25 other than in-app purchase.

1 When was this provision added?

2 A. Again, as part of meeting this injunction and making sure  
3 we made sure with developers they knew they could do this.

4 Q. And did this change Apple's policies?

5 A. Yes.

6 Q. How so?

7 A. Well, now it's easy for developers to all collect  
8 information from users if the user wants to give it to them,  
9 and communicate outside of their app on anything they want  
10 including how to purchase on their website.

11 Q. And what are some of the most common means of  
12 communications between developers and users?

13 A. Typically for marketing, we use emails, websites, text  
14 messages, social media ads, those -- those types of medium.

15 Q. Now, in the -- in this post injunction world, does Apple  
16 prescreen any developer communications?

17 A. No, we do not.

18 Q. Does Apple monitor communications between developers and  
19 users in any way?

20 A. No, we do not.

21 Q. Can developers communicate with users about offers for  
22 digital content at lower prices than those available through  
23 the app?

24 A. Yes, they can.

25 Q. Can developers complain to their users about Apple's

1 commission levels?

2 A. Yes, they can.

3 Q. Can developers inform their users about ways they can help  
4 the developer avoid paying commissions to Apple?

5 A. Yes, they can.

6 Q. Is there any limit on the number of communications that  
7 can be sent?

8 A. No, there's not.

9 Q. Is there any limit on the media that can be used to send  
10 them outside of the app?

11 A. No, there's not.

12 Q. Is there any limit or restriction on the contents of those  
13 communications at all?

14 A. No, there's not.

15 Q. So under Apple's new rules, are developers free to  
16 communicate whatever they choose to their users outside of the  
17 app?

18 A. Yes, they are.

19 Q. And that includes anything about Apple's commissions?

20 A. Yes.

21 Q. Does it include anything about Apple's IAP?

22 A. Yes.

23 Q. And does it include anything about the developers'  
24 competing commissions and services?

25 A. Yes.

1 Q. And does it include anything else that a developer wants  
2 to say?

3 A. Anything at all, yes.

4 MR. DOREN: Thank you. Pass the witness.

5 THE COURT: Mr. Bornstein.

6 MR. BORNSTEIN: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. BORNSTEIN:

9 Q. Let me just start right there. Because Mr. Doren ended on  
10 a flourish about all the things that you can do outside of the  
11 app. You realize the Court has already ruled that that was  
12 insufficient to maintain the price competition that California  
13 law requires, right?

14 A. Yes.

15 Q. So you recognize that despite all those things you can do  
16 outside the app, it is a requirement of the law and it is a  
17 requirement of the Court's injunction that you allow  
18 communication inside the app as well, correct?

19 A. Yes.

20 Q. All right. So we were just looking at the screen at  
21 CX-13.13.

22 MR. BORNSTEIN: If I could ask that to be called up  
23 again, I'd appreciate it. This was page dot 13, please.

24 (Exhibit published.)

25 / / /

1 **BY MR. BORNSTEIN:**

2 **Q.** We're looking at guideline 3.1.3.

3 **A.** Yes. One second. I closed it and I don't have the tab  
4 open.

5 **Q.** If it's easier, it's on the screen, sir?

6 **A.** My screen is not on. I'm sorry.

7 **Q.** Oh?

8 **THE COURT:** Kelly.

9 **THE CLERK:** It's on.

10 **THE WITNESS:** There we go. Thank you very much.

11 **MR. BORNSTEIN:** Great.

12 **Q.** So Mr. Doren pointed you to the last sentence of 3.1.3  
13 beginning with the word "Developers" can send communications,  
14 so forth, right?

15 **A.** Yes.

16 **Q.** The prior sentence which hasn't been changed states that  
17 apps in this section cannot within the app encourage users to  
18 use a purchasing method other than in-app purchase. And then  
19 there's an exception for 3.1.3 which we can see is reader  
20 apps, correct?

21 **A.** Correct.

22 **Q.** So Apple today continues to tell developers of apps that  
23 fall within 3.1.3, like multi-platform apps, that they cannot  
24 within their app encourage users to use anything other than  
25 IAP. Correct?

1       A. I don't agree with that.

2       Q. Okay. I think the words speak for themselves.

3             At the beginning of your examination, you were asked about  
4       the various constituencies that you had in mind when you were  
5       going through the process, and you mentioned that one of them  
6       was the Court.

7       A. Yes.

8       Q. And I think you said that was the first one.

9       A. Yes.

10       Q. So it is fair to say, sir, that during this whole process,  
11       you did have in mind that there could come a day when the  
12       Court might be reviewing your work, correct?

13       A. Sure, yes.

14       Q. Okay. And you said that one of the reasons that you  
15       created this various list of restrictions and hurdles and  
16       obstacles and requirements that Mr. Doren walked you through  
17       is you were worried about a severe risk that users might  
18       otherwise face; is that right?

19       A. Yes.

20       Q. Mr. Doren didn't ask you anything about the fee that you  
21       charged, did he?

22       A. I don't believe so.

23       Q. Right.

24             So there's no -- there's no respect in which the fee that  
25       Apple charges is justified by preventing these risks that

1 you're talking about, correct?

2 A. I can't think of a reason to that, no.

3 Q. Right. There's no greater risk to a user from a link that  
4 is, all else equal to use the phrase before, a link that  
5 carries zero commission and a link that carries a 27 percent  
6 commission payable to Apple?

7 A. I think that's true.

8 Q. All right. And it's not a justification -- let me  
9 rephrase that.

10 The fact that Apple is looking to protect users, as it  
11 says, that's not a justification for the continued prohibition  
12 on having statements in the app about alternative purchase  
13 methods that are not themselves links --

14 A. I'm sorry.

15 Q. -- right?

16 A. I mistracked on that one because I was thinking about the  
17 previous question. I actually have heard from our commerce  
18 team about issues related to fraud when there's no commerce  
19 than when there is. So I'm sorry, I need to correct my last  
20 statement.

21 There -- there have been times when the commerce team has  
22 told me that they see a significantly different risk profile  
23 for fraud if a developer knows there's no financial impact  
24 cost to them to perpetrate the fraud. It increases  
25 dramatically when there is a financial interaction and they

1 are having to send a -- or have a -- a transaction, that that  
2 doesn't make it all go away, but that certainly changes the  
3 market of developers that will take advantage of it.

4 So I'm sorry, I need to correct my previous statement.

5 Q. Great. And that's a rationale that you just thought of  
6 right now and remembered from prior conversations, right?

7 A. I was continuing on with the previous question. Sometimes  
8 it's hard to answer in one minute with thinking about the  
9 universe of all the things we do. So it took me a minute to  
10 recall that, yes.

11 Q. Sure. And that's not anywhere in the price committee  
12 deck, right, as a reason or a justification for the fee?

13 A. No, it isn't.

14 Q. And that's not anywhere in a single piece of paper that  
15 Apple filed with the Court to justify the fee, right?

16 A. No, it is not.

17 Q. All right. That is something that you have now come up  
18 with for everybody's edification --

19 (Simultaneous colloquy.)

20 **THE WITNESS:** -- answer your question.

21 **BY MR. BORNSTEIN:**

22 Q. All right. I'm sure you are.

23 It is also -- now let me go to the question that I had  
24 asked. That Apple currently prohibits users from including  
25 even a statement within the app without a link?



1       **A.** I think you mean developers, not users.

2       **Q.** Yes. If I said users, I appreciate the clarification.

3       Apple currently prohibits developers from including in their  
4       apps a simple textual truthful statement about the  
5       availability of other purchase options that is not a link,  
6       correct?

7       **A.** That's true. That wasn't our intention but -- but -- but  
8       that's true.

9       **Q.** Okay. It is also true that, as we said before, you can't  
10      have a link in the item shop, right?

11      **A.** Yes.

12      **Q.** And that too is not a -- let me rephrase this.

13             You can't have a link on an app that is part of the video  
14      partner program or the news partner program, right?

15      **A.** That's true.

16             **MR. DOREN:** Objection, Your Honor. Scope.

17             **MR. BORNSTEIN:** He's testified that this was about  
18      protecting users.

19             **THE COURT:** Overruled.

20      **BY MR. BORNSTEIN:**

21      **Q.** The -- that limitation on participation by the video  
22      partner program and the news partner program, that's not  
23      something that's being justified by a supposed severe risk to  
24      users, correct?

25      **A.** No. It -- no, that is not how we described the reasoning.

1 Q. All right. So the answer to my question is that's  
2 correct. That's not the justification.

3 A. Yeah. I didn't want to say correct because you said  
4 "supposed," and I didn't want to accept supposed. I think the  
5 risk is real and so -- but I agree with your point.

6 Q. You're a very careful witness, Mr. Schiller. We've seen  
7 that today. My question to you is severe risk is not one of  
8 the justifications for the exclusion of the video partner  
9 program and news partner program apps from the link  
10 entitlement program, right?

11 A. Correct.

12 Q. Okay.

13 We had a bunch of discussion about static and dynamic  
14 links with Mr. -- with Mr. Doren. Remember that?

15 A. Yes.

16 Q. Okay. Now, you stated that a rationale for that one is a  
17 privacy and user protection concern, correct?

18 A. That is what we've been worried about.

19 Q. All right. Now one thing I want to be clear is this is a  
20 situation where the developer is sending information that it  
21 has in the -- if there's a dynamic link, the developer is able  
22 to send information the developer already has in the app,  
23 right?

24 A. Correct.

25 Q. And it's sending it to a link that is the developer's own

1 website, correct?

2 A. Yes.

3 Q. And Apple generally -- set aside purchase links. Apple  
4 generally does not prohibit developers from including dynamic  
5 links in the app, right?

6 A. Correct.

7 Q. This is limited again to the purchase link.

8 Mr. Doren also asked you whether this restriction on  
9 dynamic links stops developers from sending users to a  
10 personalized page. Correct?

11 A. Yes.

12 Q. And your view is it does not actually stop it.

13 A. That's right.

14 Q. All right. It does, however, make it more complicated,  
15 correct?

16 A. If you're referring to the log-on, yes.

17 Q. Yes. It creates additional friction that a user has to go  
18 through in order to get to a personalized page?

19 A. It might.

20 Q. All right. So you showed -- and Mr. Doren showed you some  
21 demonstratives and a video of somebody using Amazon, correct?

22 A. Yes.

23 MR. BORNSTEIN: All right. So can -- can we just  
24 call up CDX-1003. This is the first page of the  
25 demonstrative.

(Demonstrative published.)

**BY MR. BORNSTEIN:**

**Q.** First of all, we're talking about Amazon here. Amazon is not eligible to participate in the link entitlement program, right?

**A.** Yes, they are. Amazon, for example, has the Prime Video app that if they wanted to be in this program, that's an option they could have. So -- so Amazon as a company, yes. This Amazon shopping app, no, it's a physical goods primarily.

**Q.** Right. And the Amazon Prime Video portion would have to withdraw from the video partner program before it could get itself a link entitlement too, right?

**A.** That's right.

**Q.** Okay.

**MR. BORNSTEIN:** And can we go to the screen where the user did open the web page, please. I think it's dot three.

(Demonstrative published.)

**BY MR. BORNSTEIN:**

**Q.** At the very top, there's a banner that says "Amazon Shopping. Open in the Amazon App." Do you see that?

**A.** Yes.

**Q.** That is something that Apple calls a smart banner, right?

**A.** Yes.

**Q.** It's like an optional feature that Apple allows developers to include if they want to?

1       **A.** If they choose to, yes.

2       **Q.** Right.

3           And Apple does explain to developers the benefits of  
4       having a smart banner, correct?

5       **A.** I don't recall the -- what Apple shares with developers  
6       about that. I'm sorry.

7       **Q.** All right. Would it surprise you to know that there's a  
8       section on your website that talks about smart banners and the  
9       pros of having them for developers?

10      **A.** It would not.

11      **Q.** Okay. Although Amazon itself, in the shopping app,  
12      doesn't actually use IAP, other apps that do sell digital good  
13      and content that use IAP, they're eligible to have smart  
14      partners too, correct?

15      **A.** I would assume so.

16      **Q.** And for those apps, Apple actually benefits if the user  
17      clicks on that button because then maybe purchases will be  
18      made in the app rather than on the web, right?

19      **A.** It's possible, yeah.

20      **Q.** This is effectively Apple steering users from the web back  
21      into the app on the demonstrative that you showed us?

22      **A.** No. It's not Apple steering anyone. It's a developer  
23      using a feature if they choose to.

24      **Q.** A feature that Apple makes available in order to send  
25      people back to the app and make a purchase option available.

1     **A.** We provide it so that developers can have a choice of what  
2     they want their user to use. And many developers want users  
3     to use their native apps.

4     **Q.** All right. Let's go back one slide to here.

5                     (Demonstrative published.)

6     **BY MR. BORNSTEIN:**

7     **Q.** Let's -- first of all, this is obviously not going through  
8     the purchase link, right? Because that -- that's not how this  
9     particular demonstrative was set up.

10    **A.** Correct.

11    **Q.** And Amazon doesn't have one?

12    **A.** That's right.

13    **Q.** All right.

14             If rather than going through the flow that was in your  
15     video, if a user got to Amazon or some other app -- Amazon or  
16     some other website by clicking on a link, there would be a  
17     pop-up of the warning screen, right?

18    **A.** While they're still in the app, yes.

19    **Q.** Right. So that wasn't part of the flow that Mr. Doren  
20     showed you, that -- that big full-screen warning was left out,  
21     right?

22    **A.** Well, it wasn't left out. It wasn't part of this flow.

23    **Q.** Right. It's not part of this flow, but it would be part  
24     of the flow that a user would go through from clicking on a  
25     link?

1       **A.** Yes.

2       **Q.** And then when the user lands on the web page, because it  
3       is a static link, there is a possibility that the user will  
4       not be logged into the app, right?

5       **A.** Yes.

6       **Q.** And you explained, well, they'd be logged in if they had  
7       been logged in previously. That's one way, right?

8       **A.** Yes.

9       **Q.** But otherwise they're going to need to take some action,  
10      be it typing in user credentials or using a passkey feature to  
11      get themselves into the app?

12      **A.** Correct.

13      **Q.** And that's friction they would not have if you allowed a  
14      dynamic link.

15      **A.** Possibly but not necessarily.

16      **Q.** Well, if you had -- it depends on -- if you allowed a  
17      dynamic link that allowed a developer to log someone in, then  
18      they wouldn't need to log in on their own, that's just a  
19      tautology?

20      **A.** If a developer choose to pass log-in passwords through a  
21      link. I hope many developers would be concerned about the  
22      security risk in doing that and choose not to do that. I  
23      think things like Keychain and passkey is a far safer way for  
24      a user to log into website than pass their credentials around  
25      in URLs.

1 Q. Well, that requires the user to have signed up for that  
2 program to have the passkey, right?

3 A. Yes.

4 Q. And if a developer does choose to take advantage of -- you  
5 know a lot of developers take advantage of dynamic links,  
6 right?

7 A. They do, but I'm not sure a lot of them like to pass  
8 around ID's and passwords in them.

9 Q. And you are aware that Apple right now, as you said,  
10 allows developers to do it?

11 A. In other uses of links, we don't have rules against it.

12 Q. Precisely my point. So the real experience that a user  
13 would have going through this flow is first they get a warning  
14 screen, right, if they're going through a link?

15 A. Yes.

16 Q. Then they have to click "Continue" and get past the  
17 warning screen, right?

18 A. Yes.

19 Q. And then they land on the website?

20 A. Yes.

21 Q. Correct?

22 And then they either have previously logged in or they  
23 have to log in through some other way, correct?

24 A. Yes.

25 Q. And your video, the last I think it's the last page of the



1 demonstrative, it shows -- I think you said the person likes  
2 cats, right? It shows a personalized page, right?

3 (Demonstrative published.)

4 **THE WITNESS:** Yes.

5 **BY MR. BORNSTEIN:**

6 **Q.** Now that's a feature that Amazon has, but not every  
7 developer has that personalization feature that they take  
8 advantage of, right?

9 **A.** They may not.

10 **Q.** Right.

11 And if you are a user who's in the item shop on the app  
12 looking around at particular items, you can't click on a link  
13 that takes you to a page that shows you the things that you  
14 were looking at in the item shop?

15 **A.** Yes, you can.

16 **Q.** Well, but you're not -- only if you come back out, right,  
17 of the item shop, right? You have to leave the item shop?

18 **A.** Yes, you do. Or go straight to the website if you wanted  
19 to. But you're right. For the link, you'd have to go get to  
20 the link.

21 **Q.** Right. You have to get to the link. And then you have to  
22 have a developer who is keeping track of what you were looking  
23 at and pops it up for you on the website. That's a thing the  
24 developer would have to do?

25 **A.** Developers can do that if they want.

1 Q. Right.

2 That's not available to the developer through a dynamic  
3 link, that has to be something that happens when the user  
4 signs in?

5 A. Which sounds like a much more secure way to do it.

6 Q. And a way that has additional friction associated with it?

7 A. Not necessarily.

8 Q. Only if you're already signed in, right?

9 A. Again, the -- the developer -- the user is in the store on  
10 their app. The developer, if they want, since they have  
11 identity, can on their server note the user was on this store  
12 and the last thing they looked at. They can do that. That's  
13 their choice.

14 But if the user chooses to go to the website via the link  
15 or surfing there themselves or any other way, the developer  
16 can remember the last thing the user was looking at if they  
17 want to and show them those items as well.

18 Q. Because the developer already has the information about  
19 the user, whether the user is on the website or whether the  
20 user is in the app?

21 A. That's right.

22 Q. There was a little bit of discussion about physical goods.

23 A. Yes.

24 Q. Now those transactions in physical goods, they don't go to  
25 the web, but they do happen as transactions directly with the

1 developer, right?

2 A. Yes.

3 Q. And the developer has the responsibility in those  
4 transactions not to engage in fraud, right?

5 A. Yes.

6 Q. But Apple does nothing in those circumstances to review  
7 whether the transactions actually happen as promised. They  
8 don't check to see if he got the sneakers or whether the Uber  
9 driver showed up or something like that, right?

10 A. Correct.

11 Q. You had some questions from Mr. Doren about optimizing the  
12 way that a developer might take advantage of the link program.  
13 Do you remember that?

14 A. Yes.

15 Q. And your testimony was that developers would optimize,  
16 among other things, where in the app to place the link for  
17 maximum performance, correct?

18 A. Yes.

19 Q. The place in the app where you can get maximum performance  
20 is the place where a person is going to make a purchase, and  
21 you don't let them put the link there, right?

22 A. That is one place. I think there are places in front of  
23 that that could be optimum as well.

24 Q. All right. We'll maybe take a look at that. Why don't we  
25 go to your Slide 2 from CDX-1001.

(Demonstrative published.)

**BY MR. BORNSTEIN:**

**Q.** These were some of the examples you gave about where you could put the app -- the link in the app, correct?

**A.** This was more about font and style than it was about location.

**Q.** Well, this shows three different locations, right?

**A.** Yes, it does.

**Q.** And these are all permissible locations for it to be, correct?

**A.** Yes.

**Q.** Although I will note the second and the third one, those are both in the same app, this coastgame.com, right? So that wouldn't be allowed?

**A.** Not at the same time, that's right, in the same release, yes.

**Q.** All right. And these are all, to be clear, I think we all know, but these are all fake apps. These don't actually exist.

**A.** Correct.

**Q.** All right. Because nobody actually has done this yet.

The first one which you talked about a bit, the Forest Explorer app, this is the link on the sign-in screen, right?

**A.** Yes.

**Q.** And if it's on the sign-in screen, it can't be anywhere

1 else in the app, right? Just one spot?

2 **A.** Right.

3 **Q.** And you're aware that many users, when they sign into an  
4 app like Netflix, they never sign in again?

5 **THE COURT:** Can I ask, you're saying you can only  
6 have it one time.

7 **MR. BORNSTEIN:** No. I'm saying that you can only  
8 have it in this one page on the app and no other pages.

9 **THE COURT:** You can't have it in multiple places?

10 **MR. BORNSTEIN:** Correct.

11 **THE WITNESS:** That is correct. We've discussed that,  
12 Your Honor, yes.

13 **THE COURT:** Okay.

14 **BY MR. BORNSTEIN:**

15 **Q.** So just to make sure we've -- we've got it. If the link  
16 appears here on the sign-in page, that is the only place in  
17 the app that the link is allowed to be, correct?

18 **A.** Correct.

19 **Q.** All right. And many users, when they sign into an app  
20 like their Netflix app, they do that once and they never come  
21 back to the sign-in page unless something goes wrong and they  
22 get, you know, booted from the app somehow, right?

23 **A.** Correct.

24 **Q.** And so this would be, if you use this Forest Explorer  
25 example, essentially the one time that a user was even told

1 that this was an option to go outside and buy purchases  
2 somewhere else, and they would never be told again, right?

3 **A.** That's right. And so this developer probably wouldn't  
4 choose it. Whereas I have other apps where I must sign in  
5 every time I go back into it, and that would be a great place  
6 in those apps. It's up to the developer.

7 **Q.** All right. Well, let's look at some of the other options.

8 (Demonstrative published.)

9 **BY MR. BORNSTEIN:**

10 **Q.** So on this one and frankly on all of them, there are of  
11 course no products to be purchased because that's not  
12 permitted, correct?

13 **A.** In the purchase flow, correct.

14 **Q.** Right. So, for example, take the last one that says  
15 purchase from the website. But there's no information here  
16 about what it is you might actually buy.

17 **A.** Not on this screen, no.

18 **Q.** All right.

19 And if someone's on the setting screen, they're not going  
20 there because they want to make a purchase. They're going  
21 there because they want to, you know, change their profile or  
22 change the language or check out the leader board or  
23 something, right?

24 **A.** Presumably.

25 **Q.** So if they go here, they're going to have to remember when

1 they're in the spot where they're able to actually see items,  
2 they're going to have to remember, oh, I have to go back to  
3 the settings page to find that link. And they may never even  
4 have been there. Right? That's the user experience.

5 **A.** The user has forgotten it, yes.

6 **Q.** The user experience is they have to, in their mind, go  
7 back, as I said before, to the sign outside the mall. That's  
8 what this is?

9 **A.** I'm not sure about the analogy, but this is the one place.  
10 And if they forgot where it was, they would have to find it  
11 again.

12 **Q.** So to make it very clear, in order to comply with Apple's  
13 rules, developers can tell people about the alternative  
14 purchase options with this link only on the pages of the app  
15 where there is nothing to buy, right?

16 **A.** Where the purchase process has not begun. There could  
17 being things you can buy on a page. It's not time to buy it  
18 yet.

19 **Q.** Right.

20 **A.** Right.

21 **Q.** And you can only -- when there is something to buy and  
22 it's time to buy, the only purchase option that is allowed to  
23 be there is IAP?

24 **A.** Correct.

25 **Q.** Okay.

1 While we have this up, and you made the point about font,  
2 these graphic versions of this, this is not what you put in  
3 your guidelines, right? You have something else in the  
4 guidelines?

5 **A.** That's right.

6 **Q.** Yeah, and we saw that before. Maybe it's on the next page  
7 of the demonstrative.

8 Well, we have it on CX-003.5. Or we can even put up our  
9 demonstrative. This is fine.

10 (Demonstrative published.)

11 **BY MR. BORNSTEIN:**

12 **Q.** This is what it looks like in the guidelines, right?

13 **A.** Yes.

14 **Q.** Okay. And so the examples we were just looking at, they  
15 were examples that were created by Apple for purposes of this  
16 proceeding to try to demonstrate the ways in which a developer  
17 could, in theory, use a link in the app.

18 **A.** Well, not in theory. Those are -- there is no  
19 requirements on the size and color of fonts, and so the team  
20 wanted to show that nobody should assume that these images are  
21 the only way they have to appear. They're not.

22 **Q.** Right. And these --

23 **MR. BORNSTEIN:** Can we go back to the images that  
24 were in the demonstrative?

25 (Demonstrative published.)



1 **BY MR. BORNSTEIN:**

2 Q. These images are in tension with Apple's human interface  
3 guidelines, aren't they?

4 A. I don't call them pretty. We're just trying to show that  
5 they could be bold if -- whatever the developer chooses.

6 Q. Yeah, but you didn't answer my question. These are not --  
7 these are in tension with Apple's human interface guidelines,  
8 right?

9 A. I'm not sure what you're referring to.

10 Q. Sure. Well, you know there are human interface guidelines  
11 that Apple maintains?

12 A. Yes.

13 Q. And they provide information and guidance to developers  
14 about what apps should look like, correct?

15 A. Yes.

16 Q. And one of the things that Apple tells developers is that  
17 it ought to minimize the different number of type faces that  
18 they use in their apps, right?

19 A. Sure.

20 Q. And one of the things that Apple tells developers is that  
21 information should be displayed clearly and cleanly without  
22 breaks like the ones you have here. Correct?

23 A. Yes. Those are recommendations. They're not rules.

24 Q. Right. And so what you have presented to the Court as  
25 ways that this might be implemented are things that elsewhere

1 you recommend developers not do. Right?

2 A. Yes.

3 Q. Okay. Let me move to something else.

4 We talked a little bit about the -- the ramp-up of  
5 adoption. Do you recall that testimony?

6 A. Yes.

7 Q. And one of the things that you said was that for some of  
8 those other programs, the subscription program, the  
9 multi-platform rule, Apple promoted and explained and put a  
10 lot of effort into making the information available to  
11 developers, right?

12 A. Yes.

13 Q. Right.

14 What assumptions appear in your price committee deck about  
15 the spend that Apple will undertake to promote and market and  
16 explain this program to developers?

17 A. I don't recall any discussion with the working group about  
18 any assumptions like that.

19 Q. Okay.

20 Talk about the plain buttons for a second.

21 A. Yes.

22 Q. You remember when Mr. Fischer was on the stand, he was  
23 asked by the Court what the rationale was for the requirement  
24 of using the plain buttons, correct?

25 A. Yes.

1 Q. And Mr. Fischer did not have an answer. Fair?

2 A. I don't recall specifically.

3 Q. Okay. But you -- you were here for that?

4 A. Yes, I was.

5 Q. And you thought about it some after you heard his  
6 testimony, I assume.

7 A. Sure. But I also thought about it when we came up with  
8 it.

9 Q. Right. But that explanation that you gave now about  
10 making it look like a link, that's not in any of the papers  
11 that Apple filed either, is it?

12 A. I don't believe so.

13 Q. And it's your testimony that Mr. Fischer, as the head of  
14 the Worldwide App Store, he was just unaware of this  
15 rationale?

16 A. I can't explain his answer. He was in the meeting when we  
17 talked about it in the design meeting.

18 Q. Okay. Now, you also recognize that Apple says -- back to  
19 those human interface guidelines -- that the plain button  
20 style is the least prominent of the various button options,  
21 correct?

22 A. Sure, yes.

23 Q. That each combination of size and styles has a different  
24 level of prominence. And you've required developers to use  
25 the least prominent style for their purchase link, correct?

1       **A.** Yes.

2       **Q.** All right.

3           And incidentally, we talked a little bit about Netflix and  
4       how it has its link appear the same way. Remember that?

5       **A.** That's right.

6       **Q.** That's a requirement for Netflix too under the reader app  
7       guidelines, isn't it?

8       **A.** Not for the design of the placement and the font and all  
9       of that. There's a link requirement but not on the design.

10       **Q.** Yes. The -- the link requirement is specific to what it  
11       says -- I can quote it for you if you like. The requirement  
12       is that it be formatted like a standard HTML link with blue  
13       underlined text containing the domain name.

14           That was something that Netflix was required to do by  
15       Apple?

16       **A.** That's right, but it doesn't require the plain text style,  
17       I believe.

18       **Q.** Right. You've done that only for external purchase links  
19       under this program, correct?

20           Okay.

21           **THE COURT:** So I'm going to interrupt because we're  
22       not going to finish up.

23           **MR. BORNSTEIN:** Oh.

24           **THE COURT:** The small business program, you have a  
25       price deck when you came up with that commission fee?

1           **THE WITNESS:** I do not believe we did on the small  
2 business program. I don't recall that.

3           **THE COURT:** I thought you said that you have one for  
4 every pricing decision.

5           **THE WITNESS:** On all of our products. I started the  
6 process with the App Store team to have them also follow the  
7 price committee model starting in 2020 as we were working --  
8 as I switched my role.

9           And there might have been one or two things that didn't go  
10 through it at the start. We had our first one was in 2020,  
11 and I think we've had five or six price committees with the  
12 App Store since then. But I don't remember that the small  
13 business program went through it.

14           **THE COURT:** For what -- what were the projects for  
15 those five?

16           **THE WITNESS:** Let's see. The first one in 2020 that  
17 we started this with was we were creating all new price tiers  
18 globally for the App Store and all new pricing levels. So I  
19 believe we had a price committee on that.

20           Then we had two developer-specific price committee decks,  
21 one for a new API weather kit, and one for our Xcode Cloud  
22 features that we launched.

23           Let's see. Then there was this one.

24           And there's one for the DMA work as well.

25           Those are the five I recall. There -- there may have been

1 others, but those are the ones I recall.

2 **THE COURT:** What were the factors that led to the  
3 commission that you established?

4 **THE WITNESS:** I'm sorry. The commission -- I'm  
5 sorry, Your Honor, on --

6 **THE COURT:** Small business program.

7 **THE WITNESS:** The small business program.

8 **THE COURT:** 15 percent, right?

9 **THE WITNESS:** That's right.

10 **THE COURT:** How did you get to 15 percent?

11 **THE WITNESS:** Let's see. I'm trying to remember it  
12 all now. We had meetings reviewing the range of pricing that  
13 we might come up with that looked at risk of how low we can go  
14 before we have issues with fraud and actually money  
15 laundering. The commerce team had heard government concerns  
16 about money laundering with too low a commission.

17 We also looked at what would be a meaningful difference to  
18 small developers and how to model what would matter to them  
19 below the 30 percent and what would make a difference for  
20 them.

21 What else? I'm sorry, I don't remember all the factors at  
22 the time, but we -- we had a combination of discussions and  
23 models and -- but it's all a bit vague to me right now.

24 **THE COURT:** Was there any financial analysis of the  
25 value of the IP?

1           **THE WITNESS:** I do not believe so, no.

2           **THE COURT:** Okay.

3           **MR. BORNSTEIN:** May I ask one follow-up question on  
4 that, Your Honor?

5           **THE COURT:** You may.

6           **BY MR. BORNSTEIN:**

7           **Q.** Mr. Schiller, you have testified, however, that one of the  
8 impetuses for the small business program was this litigation  
9 and legislative and regulatory pressure, correct?

10          **A.** Yes. I believe I said that it helped us -- helped me get  
11 a program I had been trying to get going that didn't get going  
12 and it was certainly helpful to me to get that done.

13          **MR. BORNSTEIN:** Thank you, Your Honor.

14          **THE COURT:** All right. I believe the next day I gave  
15 you was May 31st at 9:00 a.m.

16          Mr. Doren?

17          **MR. DOREN:** Your Honor, I assume that the witness  
18 will remain sequestered. The issue, of course, is that that's  
19 a week and a half from now and he has a day job. And we will  
20 certainly not discuss his testimony with him, he will not  
21 speak with any lawyers, et cetera, but I would appreciate --  
22 I'm sure Mr. Schiller would appreciate some latitude to be  
23 able to discuss the business of the App Store over -- over the  
24 course of the next few days or at least get clear guidance  
25 from the Court if he should not.

1           **THE COURT:** Any concerns?

2           **MR. BORNSTEIN:** Your Honor, I do have concerns. I  
3 recognize that Mr. Schiller has a job. But I don't think he  
4 should be talking about the purchase link entitlement. I  
5 don't think he should be talking about any of the subject  
6 matter of the testimony.

7           If it relates to aspects of the App Store that are  
8 unrelated to the proceedings, then subject to clear  
9 instructions from the Court, I think I can accommodate that.

10          **MR. DOREN:** Yeah, I think that's fair, certainly in  
11 terms of the purchase link entitlement program. When we get  
12 into the -- the topic of -- of testimony gets pretty broad.  
13 But he will not work on anything related to the programs  
14 being -- being testified to in front of this Court until he's  
15 back up. He just needs to be able to do the rest of his job.

16          **THE COURT:** All right. Within those parameters, you  
17 can.

18          **MR. DOREN:** Thank you.

19          **THE COURT:** But if it's a close call, you don't talk  
20 about it, you don't do it. You understand me? You keep a  
21 very wide berth around what we're doing in here and your  
22 instruction not to talk to anyone.

23          **THE WITNESS:** Yes, Your Honor. I understand.

24          **THE COURT:** Okay.

25          We'll stand in recess until May 31st.



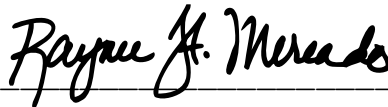
1           **MR. DOREN:** Thank you, Your Honor.

2                   (Proceedings were concluded at 1:44 P.M.)

3                               --o0o--

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6                               **CERTIFICATE OF REPORTER**

7  
8                   I certify that the foregoing is a correct transcript  
9                   from the record of proceedings in the above-entitled matter.  
10                  I further certify that I am neither counsel for, related to,  
11                  nor employed by any of the parties to the action in which this  
12                  hearing was taken, and further that I am not financially nor  
13                  otherwise interested in the outcome of the action.

14  
15                               

16                  Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

17                               Wednesday, May 22, 2024  
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